

ARIEL SHARON'S DILEMMA • THE HUNT FOR BIG TOBACCO

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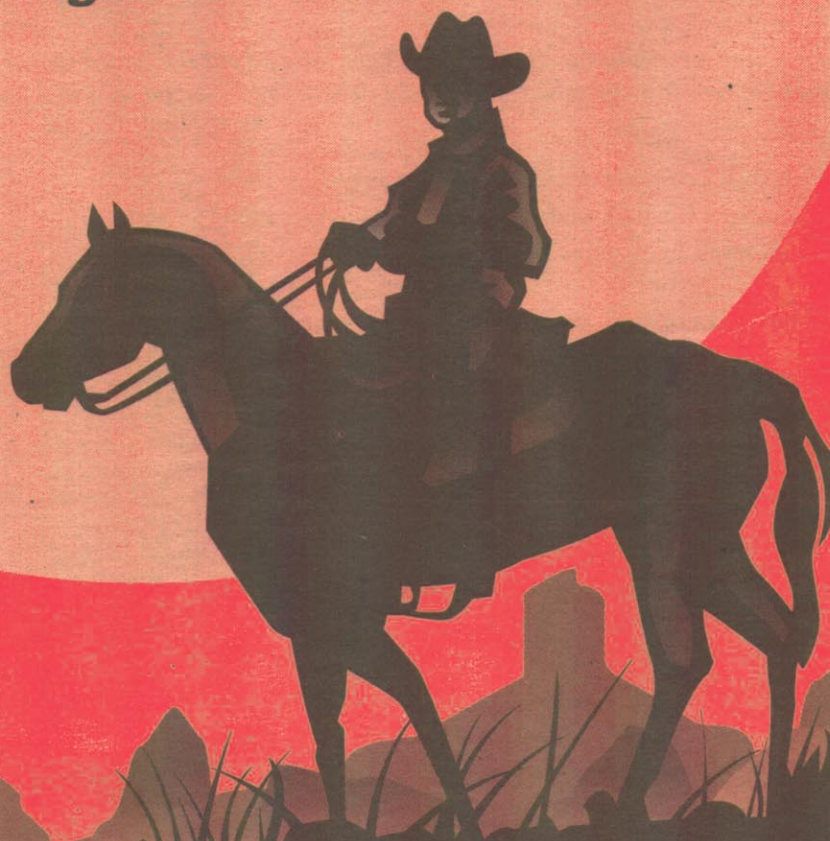
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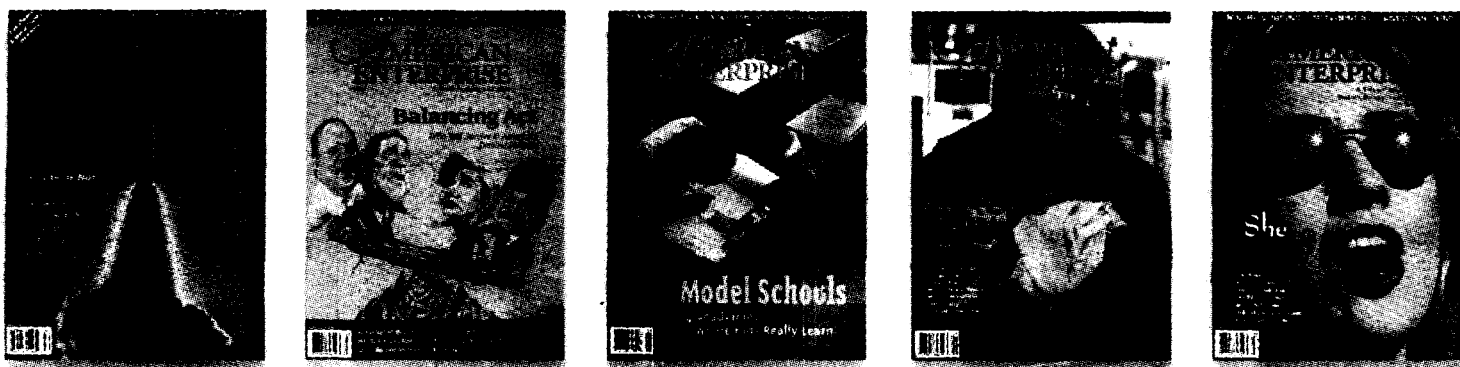
Our Heroes, Ourselves

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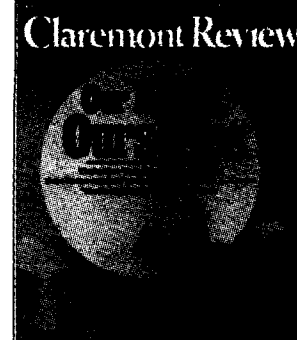


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REVIEWS & ESSAYS



The Hunt For Big Tobacco

BY MARTHA DERTHICK

A Question of Intent: A Great American Battle With A Deadly Industry, by David A. Kessler. Public Affairs, 400 pages, \$27.50

WASHINGTON YIELDS MANY memoirs. Presidents, their wives, chiefs of staff, and not-so-confidential advisers are quick to tell us what they saw and did. We rarely hear, however, from bureau chiefs, in whose offices much of the serious action takes place. Thus a book by such an author promises to be particularly rewarding.

David A. Kessler was appointed chief of the Food and Drug Administration by the elder George Bush in 1990, and remained in that office until 1997, when he left to become dean of the Yale Medical School. While at the FDA he conducted crusades for nutritional labeling and against tobacco use that are

the subject of this book. Mainly, this is a cloak-and-dagger tale about his pursuit of evidence against Big Tobacco, with would justify the regulation of cigarettes.

Kessler says, credibly enough, that he did not come to office determined to conduct this crusade. It was urged on him by a staff member, Jeffrey Nesbit, an associate commissioner for public affairs. Kessler found inspiration also among the agency's lawyers, particularly Catherine Lorraine. Disappointed that the FDA was not more aggressive, she responded to the Nesbit-Kessler overture on tobacco by saying that "This is the most important thing we can do. If we take it up, I'm willing to spend the rest of my career working on it." Only veteran careerists, the line officials who regulated conventional drugs, were opposed, fearing a compromise of the agency's core mission, but Kessler's initiative did not depend on them. To carry it out, he created a task force of persons whom he either hired from outside

or hand-picked from within the agency.

The catch was that FDA commissioners for years had insisted that the agency lacked statutory authority to regulate tobacco, and courts had agreed. How could the FDA execute a reversal? Initially, the answer came from two sources.

The first was Scott Ballin, chairman of the Committee on Smoking OR Health, an anti-tobacco consortium comprising the American Heart Association, American Lung Association, and American Cancer Society. "Ballin thought the appropriate federal laws to regulate tobacco might already be somewhere on the books," Kessler explains, "and for months he sat in his office studying them." Ballin noticed that all of the consumer protection laws passed in the '60s and '70s explicitly excluded tobacco. However, the FDA's statutory charter, much of it dating from 1938, contained no such provision. No doubt, this was because it would not have

occurred to Congress or to the tobacco industry in 1938 that any such provision was necessary. Ballin saw the omission as an opportunity. If the FDA's law alone failed to prohibit tobacco regulation, then this absence of prohibition could be taken as permission.

It was not enough to find a lacuna in the law. It was necessary also to identify language that could be used affirmatively to cover the case. Here the key was supplied by a lawyer in the agency's policy office, David Adams — "a freelance artist of the law," a colleague called him. Adams told Kessler that instead of regulating tobacco, the agency should regulate its active ingredient, nicotine. "Cigarette manufacturers can take the nicotine out, but they leave it in," Adams said. "That goes to the question of intent." That could bring nicotine within reach of the FDA statute, which authorizes the agency to regulate products that are intended by their manufacturer to affect the structure or function of the body. "The idea was powerful, as elegant as it was succinct, and I recognized it as a dramatic way to approach an old problem," Kessler writes. "From that moment on [it was the fall of 1992] ... I began to focus on tobacco."

Publicly, his effort was launched in the spring of 1994 with a letter to Ballin and a major media event — hearings in the House of Representatives, presided over by Rep. Henry Waxman (D-Cal.), at which the tobac-

REVIEWS & ESSAYS

co executives swore that they believed nicotine was not addictive. Kessler was the lead witness at these hearings, which he opened with an attack on the industry's traditional defense that Americans had a right to smoke if they wanted to. Kessler's response was that it was a right not freely exercised because smokers are addicts.

IN THE FOLLOWING YEAR, KESSLER pursued twin objectives. One was to catch the industry in the act of purposely manipulating the nicotine content of cigarettes in order to addict smokers. A second was to win support from the Clinton White House. Whatever slim chance there had been of securing support from Congress vanished with the election of 1994, in which the Republicans captured both houses. Waxman was out as chairman of the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, which was abolished. Rep. Tom Bliley (R-Va.), whose district included a big Philip Morris manufacturing plant, became chairman of the full committee.

Combining a prosecutor's zeal with a scientist's curiosity, Kessler directed his team of lawyers and criminal detectives in a far-flung pursuit of tobacco's miscreants. They visited the major manufacturing plants. To avoid arousing suspicion at the tobacco archives of North Carolina State University in Raleigh, they dispatched a student intern dressed in blue jeans and carrying a backpack. They went down back roads in Wilson, North Carolina, and Cynthiana, Kentucky, in search of farmers who had grown "Y-1," a nicotine-rich experimental tobacco. With an interest in the industry's early advertising practices, they hunted through the papers of John Hill of Hill & Knowlton, the advertising agency, in the Wisconsin Historical Society.

FDA investigators also benefited from a rising flood of inside information from whistleblowers, document thefts, and legal discovery. Although in order to sustain the narrative and create suspense Kessler makes the quest sound uncertain and difficult, the fact is that in a relatively short time they were awash in useable evidence. They hit one jackpot after another as industry files were opened. Of course industry officials knew that nicotine was the active ingredient in cigarettes — everybody knew it — and after evidence developed that cigarettes cause cancer, a central objective of the industry had been to remove cancer-causing agents while sustaining levels of nicotine high enough to satisfy smokers. Kessler's project was to make this strategy sound like a crime instead of a rational response to the moral ambiguity of cigarette manufacture.

KESSLER TOOK HIS EVIDENCE TO HIGHER levels of the executive branch in search of support. His first stop was the Department of Health and Human Services. Secretary Donna Shalala was enthusiastic, except for reservations about breaking the link between tobacco and sports

sponsorships. As a former chancellor of the University of Wisconsin, Shalala knew the thrill of athletic competition. After Wisconsin's football team qualified for the Rose Bowl in 1994, she offered to share her "cheesehead" paraphernalia with Kessler, who declined. Not a fun-lover, Kessler recounts taking his young son to a minor league baseball game and plunging into the study of opinion poll data on tobacco as the first pitch passed over home plate.

Shalala's subordinates in HHS, with whom FDA officials regularly met, were much less receptive. They saw the FDA staff as "stubborn advocates," Kessler says, and thought him "mesmerized" by tobacco. It was not that they questioned his claim to have regulatory authority even in the absence of a clear grant from Congress. It was rather the substance of the proposed regulations, which, for example, contained strict prohibitions on advertising, and would have set the legal age limit for tobacco purchases at 19 when every state legislature had set it at 18.

The department's assistant secretary for legislation, Jerry D. Klepner, who would have to defend the FDA before Congress, was enraged. "Are you people crazy?" he asked. He "pushed his chair away from the table, his breathing rapid and hard. He walked to the window, struggling to control his fury, and then walked back to the edge of the table. He looked directly at [Kessler] and said, 'I feel f[---]d.'" As this passage suggests, Kessler does not hesitate to recount the effect that his extreme willfulness had on other officials, though in what spirit he does this I could not decide. Kessler is meticulous, and this may be the unvarnished truth-telling of a scientist. Or it may be the pride of a man who wants us to know how courageous and persistent he was in the face of opposition.

Unfazed by the reservations in HHS, Kessler writes that "Whether the Department was with me or not, I was going to move the issue forward. I decided we should quietly establish our own channels to the White House. It was a risk to circumvent the Department, and I did not want to offend my overseers, but I needed support from other quarters."

Within the White House, Kessler found several allies, beginning with Hillary Rodham Clinton, who put his name on the guest list for the White House Christmas party in 1994. The president, however, was understandably preoccupied with electoral politics. He remarked that the Democrats had lost the congressional election because of two issues — tobacco and gun control. Defeated Southern Democrats had told him that trying to increase the tobacco excise tax to fund health care reform had cost enough votes to be decisive in their races. Kessler's outspoken wife reassured the president that he had done the right thing, and Kessler quickly planted an idea: "... we can do this, if we focus on kids." President Clinton decided to embrace youth smoking as an issue, persuaded that it would

not be fatal to him in the South and might even help him in such populous states as New York and California, which harbored strong anti-smoking movements.

Kessler's campaign reached a successful conclusion within the executive branch in August 1995. President Clinton held a televised press conference at which he endorsed the FDA's proposed regulations. Surrounded by children, Clinton the moralist said: "When Joe Camel tells our children that smoking is cool, when billboards tell teens that smoking will lead to true romance, when Virginia Slims tells adolescents that cigarettes will make them thin and glamorous, then our children need our wisdom, our guidance, and our experience."

Throughout the investigation, which took his agents into homes, offices, tobacco fields, and factories, Kessler expected Congress to instruct that funds not be spent for the purpose. Congress's failure to take command contrasts sharply with its behavior in the mid-1960s when the Federal Trade Commission got out front in regard to tobacco regulation. The FTC was quickly reined in.

Members from the tobacco states did protest. Sen. Mitch McConnell (R-Ky.) secured signatures from 120 members of the House and 32 members of the Senate on a letter objecting to the FDA's reach into tobacco regulation. The chairmen of the House Agriculture Committee, first Rep. Charlie Rose (D-N.C.) and then Thomas Ewing (R-Ill.), his successor, asked Kessler to supply documents relating to the investigation, and when he refused, they asked the General Accounting Office (GAO) to investigate the FDA. The agency refused also to cooperate with the GAO. Kessler writes, "Document requests are an appropriate part of oversight, but this request bothered me because I was sure the tobacco companies were behind it." Rose and Ewing backed down rather than issue subpoenas.

In the event, not only did Congress fail to withhold funds from Kessler's investigation, it acceded to appropriations with which the FDA in 1997 created its own anti-tobacco regulatory regime. This entailed signing contracts with state governments under which they used under-age youths to conduct "sting" operations against tobacco retailers and imposed civil fines on those who sold cigarettes illegally. By the beginning of 2000, the extra-legislative FDA regulatory regime had collected more than \$800,000 in civil penalties and was gearing up to expand.

WHAT ONE MAKES OF THIS STORY WILL depend very much on how one views American constitutionalism and the use of government power. To those who think that government should do whatever it takes to protect citizens from the menace of tobacco, Kessler is a hero. To those who honor the precepts of individual freedom and responsibility, government by law, separation of powers, and

agency accountability to the legislature, this is a deeply disturbing story. Consider the abuses: the FDA's ability to read the law as it wished, finding permission in its silences; Kessler's decision to set up his own outfit of criminal investigators because he did not want to have to rely on the FBI; his sending a team of his gun-toting cops into homes, offices, and tobacco fields without congressional sanction; engaging underage youths in sting operations, likewise without legislative sanction; its ignoring questions from Congress and Congress's lawful agent, the General Accounting Office, because an agency head concluded that they were acting on behalf of a special interest (a rationale that would enable virtually any agency head to ignore virtually any congressional request); and generally its doing whatever Congress lacked the political will to prohibit.

In the end, the Supreme Court narrowly ruled the agency's actions impermissible because they were not authorized by law, though four members, following Justice Stephen Breyer, were prepared to read the FDA's statute to authorize whatever protected the public health. "The decision that could have saved hundreds of thousands of lives had been lost by a single vote," Kessler writes. "The split was not defined by a judgment on the industry's intent, or by the question of whether nicotine was a drug. I have to believe that attitudes toward government regulation determined the vote."

This was undoubtedly true, especially if one expands "government regulation" to encompass "legislative delegation." It is a revealing comment. In Kessler's eyes, the lawfulness of his agency's doing what he wanted it to do was not the central issue, or even a very important one. A specialist in public health, he could see the issue only as one of nicotine addiction and industry wrongdoing. He felt no compunction to weigh the policy end of tobacco control against any competing norms of constitutional principle. Though unusually well-educated, curious, analytical, and scientifically engaged, he is almost never reflective. He turns so only at the very end of the book, when he reflects, not on his own actions, but those of the lawyers who were the principal framers of the industry's strategy of deception. This sets him to worrying about the legal profession, which he is surely right to do. It's as if he had never thought previously about that profession's ethics and obligations.

Anyone who wants to reflect on the condition of our legal system and the ethics of practitioners of the law will find a great deal to ponder in the tobacco war. Both sides of it.

Martha Derthick is an emeritus professor of government and foreign affairs at the University of Virginia and author of Agency Under Stress: The Social Security Administration and American Government (Brookings, 1990).

Ariel Sharon's Dilemma

BY ANGELO M. CODEVILLA

Warrior: An Autobiography, by Ariel Sharon with David Chanoff. Simon & Schuster, 571 pages (1989)

ISRAEL HAS NEVER LOST A BATTLE. NOR HAS it ever won a war. Ever since 1947, Israel has fought almost continuously: The war of independence in 1948, the 1956 war, the Six Day War of 1967, the War of Attrition in 1970, the Yom Kippur War in 1973, the Galilee-Lebanon War of 1982, and two Arab civil wars, the latest still raging. Between these wars, the struggle against terrorism has cost enormous casualties, too. In all battles, Israel has routed its enemies' fighters. Through no war has it succeeded in securing its objective, to be left in peace for at least a little while.

Since losing wars normally results from battles lost rather than won, an unbroken string of wholesale defeats or frustrations in the wake of battlefield victories is interesting — especially to Americans who, since the Korean War, have overwhelmed enemy forces in Asia, Africa, and the Persian Gulf only to leave Kim Il Sung, Ho Chi Minh, Somali warlords, and Saddam Hussein to determine the future of their regions. Moreover, incapacity to convert military superiority into victory seems less and less rare in Western statecraft. The case of Israel is useful for studying this incapacity because, like all phenomena, it is best understood in its most fully developed form.

In military as in other matters Israel exhibits the same characteristics as other modern Western states, only more so. It may be said that Israel is the advanced case of Western afflictions. The 1989 autobiography of Ariel Sharon, who is arguably Israel's most successful battlefield commander and who has come closest to real victory, sheds the most light on the discrepancy between Israel's military performance and political result. Sharon is particularly interesting now because of the speculation about how his election as Israel's prime minister by the greatest margin ever might affect his country's conduct of the latest round of its wars — an effort that Sharon is now in charge of conducting and that, at this writing, he does not seem to have a plan for winning.

Sharon was a good soldier, sprung from the orange groves of the Promised Land. As a boy in 1947 he joined the illegal Jewish defense force, the Haganah, fighting the British. Moved by his father's admonition to protect his people, he nevertheless bridled his passions for the sake of military discipline. Throughout his career it seems that his spiritedness, his drive for victory, was always at



least a step ahead of what his superiors would permit. Sharon was always "pushing the envelope." Wounded as a young platoon leader in the war of independence, and thereafter part of the famous "Commando 101" unit, Sharon was in the mold of the Israelis who awed the world by their heroic rescue of hostages at Entebbe in 1976.

Sharon's account of his battles shows technical proficiency, devotion to his men, and a keen eye for designating the objectives the taking of which would have the maximum effect on the enemy. Good soldier to a fault, he concludes account after account with something like "we accomplished our objective and more." Yet when the reader considers that this book is written not by just any military man but by one who, by the time he wrote, had been a former Defense Minister and a major figure in politics, he is struck by how little the accounts of battles discuss how the objectives of the battles contributed to the achievement of the country's purposes.

At first the reader assumes that Sharon is merely describing the thoughts of a young company commander, or even a battalion commander. We read of a 1955 raid on an Egyptian military camp in Gaza from which the Egyptians had wreaked havoc on Israeli villages. Sharon's description, complete with map, is as brilliant as the plan itself. He calls it "a watershed in Middle Eastern affairs" and is satisfied that it was "a dramatic demonstration that Israel would not tolerate the continued terrorization of its people." Still he notes that it did not stop Nasser, who then allied with the Soviet Union and prepared a bigger war.

That came in 1956. Sharon led a paratroop brigade to capture the shores of the Suez Canal and the strategic Sinai passes. When, after the cease fire, the government ordered the army to vacate the Sinai, the young brigadier "took it hard." "Our overriding goal had been to find a way of forcing Egypt to accept responsibility, and put an end to [terrorism]. And now the Egyptians would be coming back. It was as if we had not solved anything at all." And indeed Israel had gained only another eleven tortured years. Then, in 1967, Division Commander Sharon again led the Israeli spearhead. He struggled against the government's and his fel-

low generals' preferences for piecemeal attacks along a broad front and thrust his division through enemy lines, disorganizing the enemy rear and delivering total operational success. The book gives no hint of any dissatisfaction with the government's decision to stop military operations at America's behest without achieving changes in the attitude or composition of the Arab regimes.

Then came the desperate Yom Kippur War of 1973. Retired General Sharon resumed command of a division, and, on the fateful day of October 8, suffered the near fatal consequences of insufficient boldness at the high command. After near insubordination on his part, he again thrust through enemy lines in a classic maneuver, cut off the enemy, and forced a cease fire — again to suffer the consequences of bellum interruptus. At this point the reader is saying: Ah, if only Sharon had been in charge of the government! Surely military operations would have been designed to achieve real peace.

In the 1982 Lebanon War, Sharon was Defense Minister and Prime Minister Begin's soulmate. Sharon did not lack a vision. Victory would consist of destroying the PLO, which since 1973 had ravished the Lebanese body politic and inflicted terror on Northern Israel, and of chasing Syria out of Lebanon. Peace would be secured by restoring the balance of Lebanon's religious communities, which would itself depend upon restoring the power of Bashir Gemayel's Maronite Christians. The Israeli army was up to the task, and Sharon knew precisely the maneuver that would do the job: capture the Beirut-Damascus highway, link up with the Christian forces, make the Bekaa Valley untenable for Syria and turn Beirut into a death trap for the PLO.

The problem with all this was that Sharon and Begin did not share these thoughts with the cabinet or the country. On the contrary, they got political agreement for the war by reiterating that its purpose, "Peace For Galilee," could be achieved by clearing out the PLO from a 25-mile zone up to the Litani River. Sharon tells us that the advance beyond the Litani to the highway and Beirut were in response to Arab violations of two cease fires, and that the Labor Party's hue and cry against the advance was disloyal. All true.

Nevertheless, it is also true that Sharon knew all along what sort of military operation it would take to achieve peace, and that he refrained from building political support for it. That may have been because such political resolve is beyond the power of any Israeli — or possibly of any Western political leader to achieve. At any rate, he did not try.

This leads us to the main question: Is it possible for a country such as Israel to resolve to defeat its enemies — not just to stave off battlefield defeat but to impose its will on another people? Sharon's explanation of the Labor Party's betrayal of Israeli forces — they so resented being out of power that they began thinking of the army as "them," and wanted "them" abased more than they wanted the PLO and the Syrians abased — is true enough. It reminds Americans of our own Vietnam War. But the explanation is insufficient. Why is it that a significant proportion of society's leaders just cannot countenance war for the natural end of war — to impose our kind of peace on others?

Israel is prototypical because its leadership is composed, even more thoroughly than the leadership of other Western countries, of people who have no intellectual or moral foundation outside of modernist ideologies. The lamp unto Israel's feet is not the Old Testament, but rather Second International socialism, the Kennedy School of Government, and the latest nonsense from the intellectual hothouses of the West. Hence even the generation of Ben Gurion never sought military victory. Those old socialists believed that Arab hostility would vanish when modern, secular socialism would reach Arab capitals. Peace would reign among modern secular socialists of all races. The next generation of leaders was paralyzed by the presumption that all values are equal, and that national peculiarities were retrograde. Surely the Arabs would be kind to fellow relativists! The generation of leaders with whom Sharon must deal nowadays believes in the so-called globalization of the world. They believe along with the *New York Times'* Thomas Friedman that the civilization of the computer would overcome the resentments of "olive tree" cultures. Victory has no place in any of this.

And so Israel's boldest warrior faces a cruel war of attrition waged by people wholly unlike what modernist ideologies say they should be. His military operations have amounted to tit for tat. Sharon may or may not have developed, in his heart of hearts, a battle plan for winning this war. It is certain only that he has made no effort to marshal the ideas within his own body politic that would make such a plan more viable than the excellent but foredoomed plan he executed in Lebanon.

Angelo M. Codevilla, Professor of International Relations at Boston University and Senior Fellow of the Claremont Institute, directs the Strategic Studies Program at the Institute of Advanced Strategic and Political Studies in Jerusalem and Washington.

The Peace Process Is Dead. Let's Bury It

BY HARRY V. JAFFA

THE OSLO "PEACE PROCESS" IS DEAD. IT is time for a public burial, before the corpse infects the landscape even more than it has already. As the fighting between Israelis and Palestine Liberation Organization-led Palestinians escalates, American policy lamely calls for an end to the fighting and a return to the conference table. But the fighting is a consequence of all the previous visits to the conference table. What is the point in renewing a process that cannot lead anywhere except back to where we are now?

The idea underlying Oslo was that the Israelis would give up land to the PLO to form a Palestinian state, and that state would then conclude an agreement for lasting peace and economic cooperation with Israel. But "land for peace" today is indistinguishable in principle from "Sudetenland for peace" in 1938. Hitler then declared the Sudetenland to be his last territorial demand in Europe, and Chamberlain believed him. When Chamberlain returned from Munich waving a slip of paper with Hitler's signature, he declared that it meant "Peace in our time." In fact, it guaranteed the outbreak of the greatest war in all human history.

Winston Churchill once observed that a policy of appeasement was not in itself a bad thing. One may appease one's hunger by a good meal. At the end of the meal one is no longer hungry. But giving Hitler what he wanted only made him hungrier for more. Shortly after occupying the Sudetenland he occupied all of Czechoslovakia. That in turn was a springboard for his attack on Poland, and after that, all of Europe. In 1938 the Czechs had one of Europe's best armies. The German panzer divisions would have had great difficulty operating in the Sudeten mountains. The German generals had little confidence in their ability to defeat the Czechs in 1938, and there were rumors of a coup against Hitler if he gave them the order to do so. But the capitulation of the western democracies at Munich gave Hitler an aura of invincibility. Had the Czechs fought, they would have drawn their reluctant allies into the battle, and they might not have had to undergo the shame and misery of being subject, first to the Nazis and then to the Communists.



Hitler could not be appeased. He was a bloodthirsty tyrant who had to be overthrown from within, or defeated from without. By continually making concessions in the interest of peace, the appeasers only made the war, when it came, more difficult and costly. The imbecility of the democracies in dealing with Hitler was rooted in their inability to see his regime for what it was. There was no diplomatic solution to the problem presented by Hitler.

Exactly the same is true of Arafat and the Palestinian Authority. Their aim is the extermination of the "Zionist entity." This is in the original PLO Charter, and it has never been changed, propaganda to the contrary notwithstanding. Wiping Israel from the face of the earth remains their unchanging goal. It is well to remember that Arafat's predecessor, the Grand Mufti, spent World War II in Berlin, hoping to become the *Gauleiter* of the Middle East in order to carry out Hitler's "Final Solution" there. It is also well to remember that the PLO sided with Saddam Hussein in the Gulf War, and cheered the SCUD missiles as they descended upon Israel.

Barak's concessions at the end of his tenure as Prime Minister were as reckless as Chamberlain's at Munich. It is a piece of good fortune that Arafat refused to accept them. Among his escalating demands was the return of some 2 million alleged refugees (or their descendants) from the 1948 war. Such a measure would of itself have marked the end of the Jewish

state. Actually, there were in 1948 about 600,000 such refugees, about the same as the number of Jewish refugees from Arab states in the region. Israel absorbed its refugees, but the Arab states have refused to do the same, preferring to keep them in turbulent misery, living sores on the international body politic. Does anyone think that the Germans who were expelled from East Prussia after World War II should be returned?

There cannot be a constructive diplomatic process between a tyranny and a democracy. The problem of Hitler could be resolved only by the destruction of Hitler. After Hitler, Germany became a peaceful, democratic regime, able to join the neighbors it had once conquered in an equal partnership in the European Union. The Palestinians whom Arafat represents are like the Germans Hitler represented. The Palestinian Authority, like the Nazis, is a gangster regime that rules its own people by terror. More Palestinians have been murdered by their own government for expressing dissent than have died in action against the Israeli Defense Forces in the Intifada. The bulk of the hundreds of millions of dollars we have poured into Arafat's treasury has been embezzled.

The first step in American policy must be the de-legitimizing of the PLO, returning it to its former terrorist status. The next step must be the establishment of a procedure by which the Palestinians, free from all intimidation, like a de-Nazified Germany, can choose a new and genuinely

representative government. Such a government should be capable of helping to form a Middle East Union not unlike the European Union. After all, the long-standing hostility of Arabs and Jews is no greater than that which prevailed during two world wars between Germans and French. Ancient hatreds can be overcome, but only by a political realism that sees freedom and tyranny for what they are.

Harry V. Jaffa is professor emeritus at Claremont McKenna College and Claremont Graduate University and a Distinguished Fellow of the Claremont Institute.

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The Darwinian Mind and Faith of Justice Holmes

BY MICHAEL M. UHLMANN

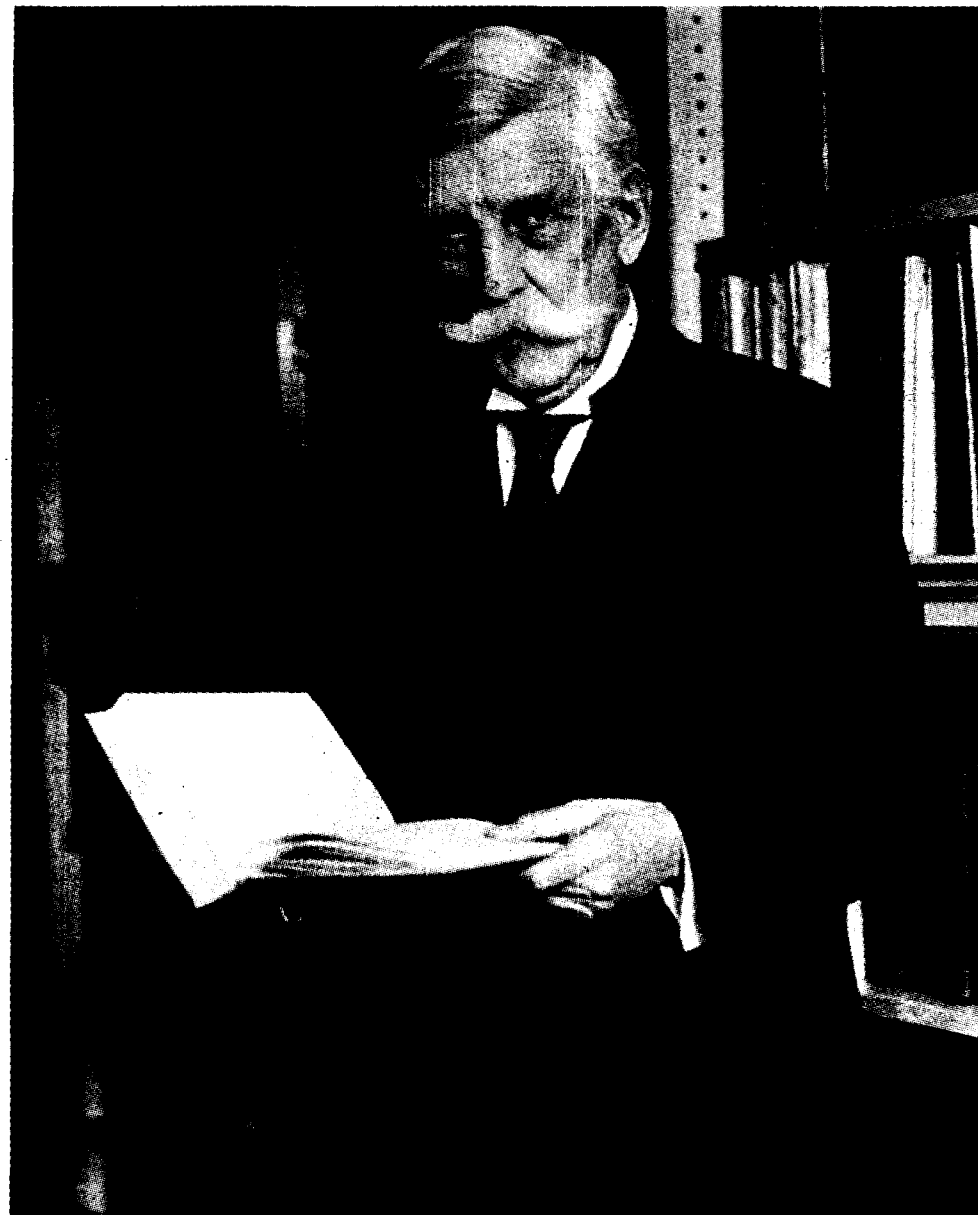
Law Without Values: The Life, Work, and Legacy of Justice Holmes, by Albert W. Alschuler. University of Chicago Press, 332 pages, \$30

THE GHOST OF JUSTICE OLIVER WENDELL Holmes, Jr. hovers — to borrow one of his own metaphors — like “a brooding omnipresence” over modern American law. Thanks to his influence we are all positivists now, and far worse for it. So argues Albert W. Alschuler of the University of Chicago Law School in *Law Without Values: The Life, Work, and Legacy of Justice Holmes*. In a devastating portrait of the jurist and his influence, Professor Alschuler argues that Holmes was almost brutishly indifferent to the welfare of others, that he celebrated the victory of the strong over the weak, and that his effort to denude law of its moral content left a poisonous legacy.

This thesis runs head-on against the flattering iconographies that bathe Holmes in adulation bordering on idolatry. “[T]he philosopher and seer, the greatest of our age in the domain of jurisprudence,” “The philosopher become king,” “[T]he most distinguished mind of its time,” “[T]he great oracle of American legal thought,” “[T]he most illustrious figure in the history of American law,” “The only great American legal thinker” — such are the accolades routinely strewn at Holmes by leading academics and jurists.

No other figure in our legal annals, not even John Marshall, has prompted such sustained and extravagant praise. The great Chief Justice at least achieved fame through great public deeds. His statesmanship may be said to have completed the founding. Marshall not only secured the place of the Supreme Court as the preeminent teacher of constitutional things, but by connecting its work to the principles of 1776 and 1789 he fostered the perpetuation of our political institutions. In his view, law was necessarily suffused with natural rights and duties that derived from a divinely ordained and rationally intelligible moral order. The common law incorporated that understanding, which found its architectonic expression in the Constitution.

Holmes’s fame rests on a lower ground. Though he lectured and wrote on legal questions over many decades, and sat for nearly 50 years as a judge, he was uninterested in and had little to say about most of the grand questions of constitutional governance that



concentrated Marshall’s attention. His principal concern was the abstract logic of law and the development of private law in particular. About natural justice, the moral predicates of the American Founding, indeed morals generally, Holmes exuded barely concealed contempt. His teaching seems to be that law is merely an artifact of primal, amoral forces in our anthropological history. Though human nature remained irreducibly red in tooth and claw, mankind nevertheless managed to tame its excesses, that is to say, its bad men, through the artful use of force. As to what distinguishes good men from bad men, or how education or law might help to breed more of the former and fewer of the latter, Holmes was tellingly silent.

His was an oddly benevolent view of legal history. Odd, because if one takes seriously Holmes’s dogmatic atheism and his equally dogmatic social Darwinism, it is hard to see how human nature could produce a relatively benevolent social order, much less so refined a creature as Oliver Wendell Holmes, Jr. This paradox was hardly unique to Holmes. An abiding prejudice of the late 19th century believed that History moved more or less inexorably onward and upward, even as its component parts seemed to suggest a darker reading of human potential. Fashionable thinkers of that day were free-riders on the

intellectual capital and moral of forebears whose arguments they disdained. Like Condorcet at the beginning of the century, they had no need for “the hypothesis” of God or for the moral implications of that belief. Science had said good-bye to all that and would henceforth dispense its wonders to behold. Darwin was in his heaven, and natural selection ensured all was right with the world. Holmes shared this prejudice so deeply that he seems never to have questioned its premises. In this most fundamental feature of his thought, from which all else radiated, he was but a child of his age, and not a particularly original or profound one at that.

Despite this, or, more likely because of it, Holmes’s influence over contemporary law and law teaching has no rival. He has been claimed, to one degree or another and however implausibly, by virtually every important sect of modern jurisprudence. Thanks chiefly to the sycophantic propaganda of Felix Frankfurter and Harold Laski, he was even more implausibly claimed by the Progressives as a champion of social reform. In more recent times, he has been enthroned by theorists of Critical Legal Studies on the left, and by those of the Law and Economics movement on the right.

Holmes was all of these, and none. An almost reflexive moral skepticism undergirds

his every thought like a *basso continuo*. One searches in vain for even the slightest trace of the compassionate liberal sentiment for which he is commonly praised. He was a borrower rather than a novel thinker, and his reputation rests more on the neatly turned epigram (of which he penned more than a few) than on carefully developed argument. Indeed, he relied for the most part on oracular pronouncements, laid down like so many *ipse dixit*s without convincing supportive analysis. As Alschuler points out, these pithy declamations often disguise more than they reveal, and what they disguise is not always pretty to behold.

Further, many of Holmes’s famous utterances — for example, “The life of the law has not been logic; it has been experience,” or “General principles do not decide specific cases,” — are at best half-truths that are either indifferent to or ignorant of intelligent contrary arguments. His one book, the widely praised but little read *The Common Law* (1881) is notable chiefly for half-a-dozen widely quoted paragraphs in the first lecture. Alschuler notes that few have ever ventured into the dense, almost impenetrable wilds beyond. Much of it has the whiff of 19th century pseudo-science parading as history and appears, in any event, to have relied upon the unacknowledged work of others.

The lesson of *The Common Law*, however, lies not in the arcane minutiae of English and American common law that dominate the text, but in Holmes’s larger purpose. That purpose was to sever law from morals, and toward that end Holmes read the history of common law in Procrustean fashion, removing so far as he could anything that smacked of moral judgment. As he put it in his celebrated 1897 article, “The Path of the Law,”

For my own part, I often doubt whether it would not be a gain if every word of moral significance could be banished from the law altogether....We should lose the fossil records of a good deal of history and the majesty got from ethical associations, but by ridding ourselves of an unnecessary confusion we should gain very much in the clearness of our thought.

In this enterprise, Holmes was, again, hardly unique among his peers; but his longevity (who else had known both John Quincy Adams and Alger Hiss?), his bully-pulpit on the Supreme Court, his penchant for the well-turned phrase, and the adulation of his admirers conjoined to ensure the success of his central mission. Historicism and relativism in variant forms are the only game in town these days at America’s law schools. The natural law tradition, without which the development of common law, much less constitutional law, cannot be intelligently understood, is treated at best as so much quaint anti-quarianism, or at worst as punishable heresy.

Professor Alschuler’s work is, as far as I can discern, the first candid book-length treatment of the nature and consequences of

SEE HOLMES ON PAGE 21

Three Generations of Liberals Are Enough

BY WILLIAM VOEGELI

The Blood of the Liberals, by George Packer. Farrar Straus & Giroux, 405 pages, \$26.

THOMAS JEFFERSON, WHO BELIEVED THE government that governs least governs best, is often called a liberal. So is Thomas "Tip" O'Neill, whose long political career was dedicated to the proposition that every human problem deserves a government program and that every such program deserves to be bigger. Dozens of books have been written to make sense of this enduring anomaly. George Packer has contributed one more, *Blood of the Liberals*, in which he uses his own family history to try to understand and defend liberalism.

Packer's maternal grandfather, George Huddleston, was born in 1869 in Tennessee,

worked his way into a successful law practice, and was elected in 1914 to the U.S. House of Representatives from Birmingham, Alabama as a populist Democrat. (As late as 1924 he was urging William Jennings Bryan to undertake a fourth run for the presidency, and Huddleston himself was considered as Robert LaFollette's running mate on the Progressive ticket that year.)

Huddleston served eleven terms in the House. In 1935 he found one of the New Deal's array of regulations too intrusive for his Jeffersonian sensibilities. The next year he lost a Democratic primary to a challenger more loyal to FDR. The provision Huddleston objected to, in a bill on utility holding companies, had been drafted by two of Roosevelt's leading brain trusters, Benjamin Cohen and Thomas Corcoran. Packer says that the fight between these New Dealers and his grandfather marked the moment when liberalism, trying to square the circle of increasing individual freedom by increasing central power, "lost its connection to something vital from the past. In the summer of 1935, to the harm of both, liberalism and populism, the brain truster with his briefcase and the one-gallused dirt farmer, parted ways."

Cohen, Packer writes, "was an early example of the modern liberal — born into a sophisticated society, wholly identifying with the beneficent power of government,

more comfortable with ideas than with the 'toiling masses.'" As such, he resembled Packer's father, whose family had come to New York from a Jewish ghetto near the Polish-Ukraine border. Herbert Packer went to Yale, joined the Navy and fought the Japanese, then returned to study at Yale Law School, which took him to a legal career in Washington, D.C., then a position as a law school faculty member and university administrator at Stanford.

The tragedy shadowing this entire memoir is Herbert Packer's massive stroke, which he suffered in 1969 when he was only 43. "He lived for three more years," his son writes, "struggling to walk again, thick of speech, increasingly despondent," and finally took his own life in December, 1972, in a San Francisco hotel room. The author blames the stroke in part on the effect that student protests at Stanford had on his father, who had become a vice provost in 1966. "In part I've never shed the idea I learned at home as a boy: that the 1960s screwed up my family, that . . . the radicals helped kill my father, that the students in their moral arrogance nearly destroyed a fragile and priceless institution."

Having told his grandfather's and father's stories, Packer uses the third and final section of *Blood of the Liberals* to tell his own. Though he is a published novelist (as are his

mother and sister), Packer's story is the least compelling one in the book. After Yale, he went to Africa as a Peace Corps volunteer, which led him to the edge of a nervous breakdown and an early trip back to the U.S. From there it was on to Boston to work as an unskilled laborer on construction sites, volunteer in a homeless shelter, and join (in 1989!) the quixotic Democratic Socialists of America. Then came Birmingham, where he explored his family roots, attended black and white evangelical churches, and dropped by the Promise Keepers rally in Washington, D.C., as a non-participating but sympathetic observer.

Packer relates his wanderings as the tale of a young man who is both personally and politically lost. With sympathies that situate him on the left wing of the Democratic party, Packer laments being born just in time to spend his life watching American liberalism self-destruct. *Blood of the Liberals* makes a political argument while it goes about the business of telling a family story. The story is moving and told with the skill of a talented writer.

To call his argument murky, however, would be generous. Packer's central concern is to expunge from liberalism the varieties of snobbery that divide well-educated reformers from unsophisticated people. The latter need, in his view, not only material benefits that liberal programs can confer, but respect

SEE LIBERALS ON PAGE 20

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Slate - February 15, 2001

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A Wall of Separation?

BY V. PHILLIP MUÑOZ

Religion and Political Culture in Jefferson's Virginia, edited by Garrett Ward Sheldon and Daniel L. Dreisbach, Rowman & Littlefield, 236 Pages, \$24.95

Religion and the New Republic: Faith in the Founding of America, edited by James H. Hutson, Rowman & Littlefield, 213 Pages, \$26.95

OSTENSIBLY, NO SUBJECT OF CONSTITUTIONAL jurisprudence has been guided more by "originalism" than the First Amendment's Establishment Clause. Unfortunately, most Supreme Court justices haven't a clue about what the founders originally meant. The Court made its first mistake in its first decision, *Everson v. Board of Education* (1947), when in the name of "original intent" it constitutionalized a poorly researched and ill-considered notion of "a wall of separation between church and state." The outcome was predictable. New scholarship produced contrary opinions, which, in turn, generated more scholarship defending the original decision. Any justice now can find a scholar and a precedent to support his or her own preferred interpretation. The rule of law has been lost, and the original meaning of the Establishment Clause forgotten.

No surprise, then, that the current court is sharply divided. The left contends that the Establishment Clause requires government to remain "strictly separated" from religion; government may not even favor religion (in general) over nonreligion. Their underlying premise is that religion threatens liberty. Liberals love Jefferson's letter to the Danbury Baptist Association, which contains the famous metaphor of "a wall of separation between church and state."

Conservatives respond that the Establishment Clause only prohibits government from favoring one religion over others or from incorporating a single national church. Conservatives highlight documents like the Northwest Ordinance of 1787, a federal statute adopted by the same Congress that drafted the First Amendment, which proclaims, "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." They claim that government may endorse religion generally so long as it does so equally, i.e., in a non-sectarian manner.

When the right wins, religions are allowed to compete equally for generally available public funds. When the left wins, religion is driven out of the public square. The right sometimes is allowed on the playing field, the left scores touchdowns. Opponents of the "naked public square" will never win until they learn how to play an entire game and to play on offense. Anyone

who doubts it should look no further than last year's Supreme Court term. Conservatives successively defended a federal program that provides money to public and non-profit private schools (including religious schools) to buy computers for non-sectarian education. Liberals triumphed against religion in public when the Court, 6-3, struck down voluntary, student-led, non-sectarian invocations before Texas high school football games. Though each side won a major case, the fruits of victory were — and are usually — strikingly different.

The left is winning this war, but the right has reasons for hope. An encouraging sign is the appearance of these two new collections of essays on religion and the American Founding: *Religion and the New Republic*, edited by James Hutson, and *Religion and Political Culture in Jefferson's Virginia*, edited by Garrett Ward Sheldon and Daniel Dreisbach. Each volume contains a lively attack on the "strict-separationist" construction of the Establishment Clause and an attempt to explain why the founders thought that state encouragement of religion supports good government.

Dreisbach, who has one essay in each collection, offers the volumes' most original work. "Religion and Legal Reforms in Revolutionary Virginia," his essay in *Religion and Political Culture in Jefferson's Virginia*, offers a radical reinterpretation of Jefferson's Virginia Statute for Religious Freedom. The Supreme Court used the Statute in *Everson* to extend the "wall of separation." Dreisbach revisits the Statute in light of its legislative context. He finds that it was only one of five bills Jefferson drafted on religious liberty during his revision of Virginia's laws. The others bills included "A Bill for Punishing Disturbers of Religious Worship and Sabbath Breakers," and "A Bill for Appointing Days of Public Fasting and Thanksgiving." The former, which was introduced in the Virginia legislature by James Madison, punished individuals who disturbed religious worship services and made citizens who labored on Sunday subject to a fine of ten shillings. The latter, also introduced by Madison, authorized Virginia's governor to designate by public proclamation days of thanksgiving and fasting. It included a punitive provision that fined ministers of the Gospel 50 pounds sterling if they failed to perform divine services on the appointed days. Dreisbach reasons that if Jefferson thought the state could punish Sabbath breakers and appoint days for religious exercises, he must not have believed that the state should be "strictly separated" from religion. Taking all of Jefferson's legislative proposals into account, Dreisbach concludes that Jefferson's chief aim was "to foster freedom of religious expression," which in some cases "was best served through statutory cooperation between church and state."

Dreisbach furthers his reinterpretation of Jefferson's thought in "Thomas Jefferson, a Mammoth Cheese, and the 'Wall of Separation Between Church and State,'" his

contribution to Hutson's volume. In this essay, he aims to undermine the "strict-separationist" interpretation of Jefferson's famous "wall of separation." To support their interpretation, "strict-separationists" often point to Jefferson's refusal to follow Presidents Washington and Adams in issuing presidential proclamations of days of prayer and thanksgiving. Dreisbach counters that Jefferson did issue such a proclamation as governor of Virginia in 1779, not to mention drafting, as we've seen, the legislation explicitly authorizing such actions. A more careful review of Jefferson's record reveals that he only opposed religious proclamations by members of the federal government. This is what he sought to explain in the Danbury letter. The "wall" refers to the national government's absence of power over religious matters. It is a reference to federalism, not a statement of the ideal relationship between church and state.

Robert Cord augments Dreisbach's interpretation in "Mr. Jefferson's 'Nonabsolute' Wall of Separation Between Church and State," which appears in *Religion and Political Culture in Jefferson's Virginia*. Cord, whose prior scholarship on the Establishment Clause has been cited favorably by Chief Justice Rehnquist, argues that Jefferson was a "nonabsolute separationist"—that is, Jefferson thought civil government was prohibited only from pursuing sectarian goals. Cord's evidence is the various ways that Jefferson used religion to support secular policies. President Jefferson, for example, signed a treaty with the Kaskaskia Indians that provided money to build a Roman Catholic church and to support a Catholic priest. Most of the Kaskaskias had converted to Catholicism, and the priest educated their children. For similar reasons, Jefferson also approved federal land grants to Protestant missionaries working to convert Native Americans. He also signed federal legislation granting property tax exemptions to religious organizations.

While Cord does a workmanlike job uncovering examples where "strict-separationism" fails to accord with history, Michael Novak and John Witte, Jr. take up the more difficult task of explaining why the founders thought government should support religion. Their respective articles appear in *Religion and the New Republic*. Novak's patriotic essay, titled "The Influence of Judaism and Christianity on the American Founding," explains and defends what he calls the founders' "logic of liberty," which he summarizes as follows:

A Republic means liberty. Liberty needs virtue. Virtue among the people is impossible without religion. Therefore, there must be education in religion. Otherwise, there will sooner or later be moral weakness, from which will follow obsequious obedience to tyrants.

"Many distinguished lawyers and scholars," Novak laments, "do not believe these things." No doubt this is true. Given the logic of liberty, Novak sets forth three dangers that

threaten American liberty. The first is a conception of the human person as solitary and atomic, liberated from bonds and responsibilities to family, society, and country. The second is an understanding of morality that is unable to discern by reason any personal responsibilities or obligations except those emanating from individual volition. The third is a government empowered to root out the vestige of religious expression from every aspect of public life. He might have named these three dangers Justice O'Connor, Justice Kennedy, and Justice Souter.

John Witte, Jr.'s essay, "A Most Mild and Equitable Establishment of Religion: John Adams and the Massachusetts Experiment," should be required reading for all scholars of religious liberty. He suggests that the founders offer two models of religious liberty: Jefferson's model of disestablishment and Adams's model of public religion. Massachusetts adopted Adams's approach—what Novak calls "the logic of liberty." Article III of the Massachusetts Constitution of 1780 states,

As the happiness of a people, and good order and preservation of civil government, essentially depend upon piety, religion, and morality; and as these cannot be generally diffused through a Community, but by the institution of publick Worship of God, and of public instruction in piety, religion, and morality: Therefore, to promote the happiness and to secure the good order and preservation of their government, the people of this Commonwealth have a right to invest their legislature with power to authorize and require . . . suitable provisions . . . for the Public worship of GOD, and for the support and maintenance of public protestant teachers of piety, religion, and morality, in all cases which provision shall not be made Voluntarily.

The "Massachusetts Model" of religious liberty allows a "slender" public establishment of religion along with private freedom for individuals to discharge religious duties as they see fit. The state may recognize religion ceremonially, endorse religious morality, and even support religion institutionally with compulsory taxes. Tax support does not violate the principle of religious liberty because religion is a public good. Public support is no more offensive to liberty than fighting a war with which some citizens disagree.

Witte offers a highly accessible introduction to Adams's position on religious liberty, a subject that is grossly neglected by First Amendment scholars. By bringing Adams and the "Massachusetts Model" to the fore, he reveals the diversity and complexity of the founders' thought on religious freedom. More importantly, he challenges us to enter into the debate that Jefferson and Adams began but did not settle.

Phillip Muñoz has accepted a position as an assistant professor of political science at North Carolina State University.

Tom Sowell in Practice and Theory

BY JAMES HIGGINS

A Personal Odyssey by Thomas Sowell. Free Press, 320 pages, \$25

Basic Economics: A Citizen's Guide to the Economy by Thomas Sowell. Basic Books, 432 pages, \$30

IF WE LIVED IN THE SENSIBLE WORLD THAT Thomas Sowell argues for so eloquently, it's quite possible he wouldn't have much of an audience today. Of course, Sowell would be known by educated readers for his brilliant trilogy on culture and societies (*Race and Culture*, *Migrations and Culture*, and *Conquests and Culture*). And Sowell would be recognized by his peers in the economics profession as a sound technical economist, a student of George Stigler and Milton Friedman who has written on Say's Law and on Marx.

But as respected as his work may be in both of those areas, that is not the reason why Sowell is widely known. His stature must be attributed to his ability to bring light where there is darkness and logic where there is confusion to public policy in general and economics in particular.

Now Sowell offers two new and very different books for the general reader. A very private public figure, Sowell tells his unique story in *A Personal Odyssey*, and he explains his discipline without charts or higher mathematics in *Basic Economics*.

A Personal Odyssey is a memoir of Sowell's 70 years. But the book does a secondary service by offering a glimpse into the subtleties and realities of segregation and racial discrimination in the days before "racism" became a code word for political opportunists.

Liberals delight in portraying any black person who supports free-market policies as a hypocrite who benefited from government quotas and preference policies, then gained easy fame by turning and attacking those very policies. Nothing could be further from the personal experience of Thomas Sowell. Sowell was born into the world of ironclad segregation that decades of one-party Democratic rule brought about in the South, a segregation so thorough that it was not until Sowell's family moved north that he found out that most Americans were white. He advanced on the strength of his own talent, without benefit of quotas or preferences, and in spite of his own refusal to play any of the games that can be so helpful in climbing the greasy pole of academia.

Sowell's tale is not to be missed. The reader sees a side of the man not often visible — poignant, inspiring, revealing. We also see in practice the traits that have marked his public writing: intellectual honesty, relentless logic, and a keen eye for distinguishing unpopular fact from popular superstition.

Sowell's father died before Tom's birth in North Carolina in 1930. Tom's mother, already supporting four children on a maid's

wages, put him in the care of a great-aunt who moved the family to Harlem when he was nine-years-old. Sowell recounts his travails in getting a basic education in the face of strained finances and a family hostile to his desire to go to decent schools. It is a remarkable personal achievement that Sowell even reached high school, much less earned an honors undergraduate degree from Harvard and a Ph.D. from the University of Chicago.

Sowell's account of his service in the Marine Corps calls to mind *A Connecticut Yankee in King Arthur's Court*, so alien were this particular draftee's logical habits of mind to the world of regimented governmental organization.

Sowell's most scalding passages blast not racism, the military, or even liberalism, but academic administrators. Sowell tells of teaching at places as various as Douglass College in New Jersey, Cornell, and UCLA. Few are the administrators who did not lie to him outright, renege on solemn promises made to induce him to take jobs, or turn tail and run from radical students trying to bully their opponents into silence. Sowell's aversion to lowering academic standards in order to "help" students from disadvantaged backgrounds seems to have been galvanized by his experience teaching at Howard University, where a slothful and disingenuous administration wasted an opportunity to build up a first-rate black-run university because of what a U.S. presidential candidate would later call "the soft bigotry of low expectations."

By Sowell's own account, his period of greatest professional productivity and happiness has been his continuing tenure at the Hoover Institution, which started in 1980. For the last two decades, he has been able to devote himself to research, producing most of the work for which he is known, including the *Culture* series; *The Quest for Cosmic Justice*; and *Vision of the Anointed*, a merciless tweaking of the politically correct elites.

Almost simultaneously, Sowell has brought out quite a different book, the badly needed *Basic Economics*.

Until the early 20th century, it was the norm for economists to write so that the educated layman could understand them. Ricardo, Smith, Mill, and other pioneers in economic thinking wrote that way. With the 20th century came the systematic application of the scientific method and hypothesis testing to the way economics is practiced by academics. And with that change came statistical methods and ever-higher mathematics. Today the pages of peer-reviewed economics journals are unintelligible to anyone not fluent in stochastic calculus. With *Basic Economics*, Sowell does what the dominant quantitative thinkers believe to be either impossible or irresponsible: he writes an introductory economics book without charts or graphs.

Economic illiteracy is the rule rather than the exception in popular media, even in publications that promote themselves as media "of record." Hence we read about the crisis caused by California's "deregulation" of the electric utilities industry, when in fact California's power problems have been caused by price controls that have ruined the

SEE SOWELL ON PAGE 20

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COVER STORY

THERE ONCE WERE GIANTS

The American Poetry of the Hollywood Western By John Marini

A CENTURY AGO, AS THE WESTERN frontier passed into memory, the art of American history began to fade away, too. In its place rose a science of history, heavily and proudly academic. The new breed of American historians believed that they had understood the past as the past could not have understood itself. The past, therefore, had nothing significant to teach them.

Woodrow Wilson gave classic expression to this progressive view of the world. The role of the professional historian and educator, wrote Wilson, was "to make the young gentlemen of the rising generation as unlike their fathers as possible." The reason for this was that the older generation had "lost touch with the processes of life . . . and therefore they were out of sympathy with the creative, formative and progressive forces of society." Old-fashioned education found greatness in the past. Progressive education would flatter the rising generation:

Progress! Did you ever reflect that that word is almost a new one? No word comes more often or more naturally to the lips of modern man, as if the thing it stands for were almost synonymous with life itself, and yet men through many thousand years never talked or thought of progress. They thought in the other direction. Their stories of heroism and glory were tales of the past. The ancestor wore the heavier armor and carried the larger spear. 'There were giants in those days.' Now all that has altered. We think of the future, not the past, as the more glorious time in comparison with which the present is nothing.

• For progressive historians, the past was not intelligible in its own right, but only with reference to the future, that is, to some form of the idea of progress which, although "almost synonymous with life itself," was

wholly unknown to past generations. What had seemed to Abraham Lincoln, for example, to be the American Founders' heroic virtues and tragic limitations appeared to the sophisticated historian as mere reflections of outdated attitudes and beliefs — prejudices of a less enlightened time.

As it happened, America did not entrust its past entirely to the social scientists. While American intellectuals were succumbing to the charms of progressivism, Americans in the millions were thrilling to the most compelling form of mass entertainment ever created — the motion picture — and particularly to that most distinctive American art form, the Hollywood western.

The American western offered an artistic and popular response to the intellectual triumph of progressivism. Progressivism in all its varieties, as Wilson made clear, severs us from the past by asserting our fundamental superiority to all that has gone before. The implicit premise of the western, on the other hand, is that our fathers were in some respects better than we are: whatever they may have left us to live down, they also gave us something to live up to. The western restores our connection to the past by acknowledging the fullness or moral wholeness of the past. This could only be done by recognizing the possibility of true greatness, of heroes, in the past, and, of course, there cannot be heroes without villains. The greatest directors of western movies portrayed a world in which genuine heroes and therefore genuine villains were possible, where human and American virtues and vices contended in all seriousness and the heights and depths of human behavior — like the American Revolution and the legacy of slavery — came into view in a way that was and is meaningful to the moral imagination.

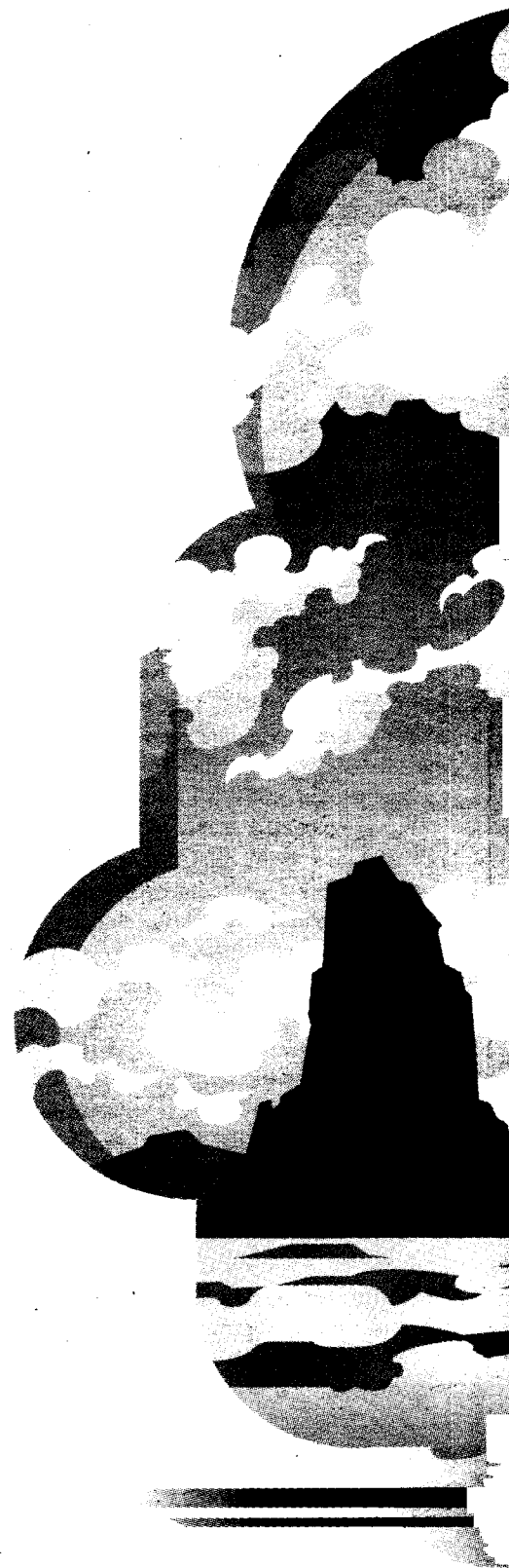
The poetry of the western, of course, gave a distinctive "local habitation and a name" to the world it recreated: it was The

West. Like Homer's Troy and the England of Shakespeare's histories, the West gave its own peculiar shape to the human drama and the human questions it explored. The old West, celebrated in the movies, existed somewhere between the civilized East, and the oasis, the garden, of California. (Although California was the real home of the make-believe western, it was not, strictly speaking, a part of the old West. As the great western novelist, Wallace Stegner, noted, "California is west of the West." It was only a dream, especially for those who lived in the West: the cowboy was always going to California, but he never seemed to make it there.)

The old West was situated in the God-forsaken wilds of the desert or wilderness, without community, without law, without civilization. It was a place where simple survival was difficult, a place where nature was uncompromising, just as society had been in the places left behind. The West offered the possibility of a new beginning, of re-founding, of establishing governments from reflection and choice, rather than mishaps of birth and tradition. In the West, men seemed to have it in their power to make the world over again, and this made it necessary or possible to think again about the conditions, purposes, and limits of human community. But the western movie showed that even in a new land with a fresh start, the law was not easily established on principles of justice and the common good. More commonly, as Alexander Hamilton had lamented, government was a product of accident and force.

Even so, in showing the coming into being of community or the establishment of civil society, the most thoughtful westerns confronted the fundamental questions of politics. They attempted to examine the distinctions between nature and convention, law and justice, the individual and the community; they dramatically explored the

meaning of those two great American themes, freedom and equality. In treating such matters, the best western movies probed the deepest tensions in modern conceptions of the human condition or human happiness. The western could show that the imposition of law and morality was a necessary condition of freedom in a community and at the same time how law and society, or civilization itself, could seem to deprive man of his natural liberty and rob him of his individual goodness. As Rousseau might have said, the western sometimes pitted the Indian, who was born free and had not put himself in chains, against the enslaving forces of society and civilization. The noble savage, engaged in a confrontation with civilization and its technology, became the defender of a kind of pre-political state of natural freedom.





The western, then, could look critically at the supposed virtues of progress and the forces — perhaps more virtuous — opposed to it. It did not take the superiority of civilization — or the future — for granted. The law, and civilization, too, had to justify themselves, in an almost philosophic way. It is for this reason that the appeal of the classic western was a universal, not just an American, phenomenon.

In the hands of directors like John Ford, the western allowed us to go back to school again, to learn some lessons that could not be taught by value-free social science or progressive history. In "The Man Who Shot Liberty Valance" (1962), for example, Ford attempted to recreate on screen the necessary conditions for the emergence of a democratic way of life. He did so by showing those forces that permanently menace a

regime of civil liberty and the rule of law. In the film, Ransom Stoddard (James Stewart) is bringing the word and the law — two necessary ingredients of civilization and political order — from the civilized East to the town of Shinbone, a virtual state of nature located in the "territory." There are two dominant figures in Shinbone. Liberty Valance (Lee Marvin) is an outlaw, who understands freedom as the indulgence of his desires in the absence of any restraint; he has neither home nor family. Tom Doniphon (John Wayne) is a kind of naturally superior individual who wants only a private existence and who, because of his superiority, can secure one for himself. Apparently he owns a slave, his "boy," Pompey. His only desire is to marry Hallie, an illiterate waitress who grew up in the West. Everyone in town knows that Hallie

is his girl — until Ransom Stoddard, the law, and education come to town.

When Stoddard, "attorney at law, duly licensed for the territories," approaches the town of Shinbone, he is beaten and left for dead, with his law books ripped to shreds, by Liberty Valance. Doniphon rescues him, and brings him to Hallie's house, where she nurses him back to health. When Stoddard is struggling to recover, he insists that his assailant should be brought to justice through the law, not the vengeance of a handgun. But Doniphon drily notes that "out here a man settles his own problems." Stoddard cannot believe his ears: "you're saying just exactly what Liberty Valance said! What kind of community have I come to?" Not much of one. There is no effectual law in Shinbone. The residents in town, some of whom are illiterate immigrants, know little of what the obligation of citizenship entails. Consequently, Ford literally takes us into the classroom. He provides a lesson on the principles of democratic government, showing how private individuals are transformed into a public, how passion is subordinated to reason, and how the rule of law replaces the deeds of those outside law.

When Hallie is compelled to admit to Stoddard that she cannot read or write, he promises to teach her, and others join the class. Stoddard's classroom is the office of the newspaper editor, Dutton Peabody. On the blackboard, Stoddard has written, "Education is the basis of law and order." In the classroom are the Spanish-speaking children of the sheriff; Hallie; Peter and Nora Erickson, who want to become citizens; and Pompey, Doniphon's slave. First, Stoddard insists that the children recite the alphabet in order to show that they have learned the importance of a common language, in this case English. Then he asks Nora what she has learned about the United States. The immigrant Nora replies, "The United States is a republic, and a republic is a state in which the people are the boss." Finally, he asks what the basic law of the land is, clearly referring to the Constitution. Pompey replies, "It was writ by Mr. Thomas Jefferson of Virginia, and he called it the Constitution, and it begins with the words, 'We hold these truths to be self-evident, that . . .'" but he forgets the rest. Stoddard notes that Pompey is reciting The Declaration of Independence and that the part Pompey had forgotten was the part that said "that all men are created equal." Stoddard adds, "A lot of people forget that part."

Indeed, no one in Shinbone seems to understand the meaning of the Declaration of Independence, or the importance of a Constitution. The two dominant characters, Doniphon and Valance, seem to believe that the basis of rule is force alone. Ford makes it clear in this scene that it is only because men are equal that the people can be the boss. It is clear that the law offers no protection to Pompey; nor does he show any consciousness of needing it. As soon as Doniphon returns from his trip, he enters

the class and orders Pompey out of school. The lesson on the rights of man is over. Doniphon does not want his slave to become educated; he insists that Pompey go back to work. The school is shut down when it is learned that Liberty Valance is coming back to town.

The action reaches its climax when Stoddard is finally driven to take up a gun and meet Liberty Valance in a gunfight — the law and the word have proven ineffectual against force and violence. When Valance is about to finish Stoddard off, Doniphon, who had been urged by Hallie to do something and is now lurking in the shadows across the street, kills Valance with a rifle shot. Doniphon lets it appear that Valance was shot by Stoddard in the gunfight — even Stoddard himself believes that this is what happened. Stoddard becomes a hero as the man who shot the outlaw Liberty Valance, and he is nominated as a delegate to the territorial convention on statehood. But when his opponents denounce him as a man whose only qualification is the blood on his hands, his conscience will not allow him to accept the nomination, and he rushes from the hall with every intention of returning to the East.

Doniphon stops Stoddard and reveals to him privately the truth — that Stoddard had not killed Liberty Valance in the gunfight, but that Doniphon himself had killed him: "cold-blooded murder," says Doniphon, "but I can live with it." He sends Stoddard back to accept the nomination, telling him, you taught Hallie to read, "now give her something to read about." Stoddard goes on to marry Hallie and have an illustrious political career. Doniphon dies a pauper's death, without his boots and gun. The movie makes clear that without Doniphon's heroic virtues and unlawful deeds there could be no law and civilization in Shinbone, but also that a civilized Shinbone has no place for such virtues or for such a hero. Only the man who profited from Doniphon's heroism knows the truth about him and the importance of his deeds.

In the famous ending of "The Man Who Shot Liberty Valance," the editor of the *Shinbone Star* gets the story of a lifetime: the great Ransom Stoddard, now an elder statesman, tells him the truth about the man who shot Liberty Valance so many years ago. The newspaperman refuses to print it. "This is the West, sir. When the legend becomes fact, print the legend."

Because it still knew a hero—and a villain—when it saw one, the distinctively American poetry of the Hollywood western helped us to see, in ways that American intellectuals no longer could, how the facts may be made worthy of becoming legend.

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Bobos in Paradise: The New Upper Class and How They Got There, by David Brooks. Simon & Schuster, 285 pages, \$25

The Virtue of Prosperity: Finding Values in an Age of Techno-Affluence, by Dinesh D'Souza. Free Press, 256 pages, \$26

THANKS TO DAVID BROOKS, America's new ruling class has a name — the Bourgeois Bohemians, or Bobos. They are too politically apathetic to hold actual political offices, but they set the tone. The Bobo is now the model American. The model American town is now his or her kind of town, what Brooks calls the Latte Town — Burlington, Vermont, for example. Most towns are still not much like Burlington, but most towns now have latte sections, which are touted as the most advanced or livable parts of town.

The Bobos exist somewhere between the merely middle-class Americans that Alan Wolfe describes in *One Nation, After All*, and the pathbreaking technological entrepreneurs Dinesh D'Souza portrays in *The Virtue of Prosperity*. It would appear, at first, that our rulers are D'Souza's entrepreneurs. But men like Bill Gates of Microsoft and Steve Jobs of Apple, D'Souza observes, are too narrowly obsessed with their work and too inarticulate to be American models. Such genuinely extraordinary human beings often believe and even say that life would be meaningless without their work, and the rest of their lives are, usually, messes.

If the Bobos exist just below the technological entrepreneurs in terms of raw brilliance, power, and wealth, they are at least more articulate and admirable. They live more balanced lives — they work hard, too, but not at the expense of family, communal involvement, and spiritual life. They give voice to the aspirations of our time.

The bourgeois virtues Bobos possess include personal responsibility, productivity, the willingness to sacrifice for comfortable self-preservation, and aversion to conflict and war. Their bohemian, or anti-establishment, virtues include subordination of money to human fulfillment, their refusal to put on airs or lord it over others, and concern with spirituality and human wholeness. The Bobos identify taste with simplicity, and so they use their money for beautiful but subdued bathrooms and vacations to the rain forest, not for pink Cadillacs and power boats. But they do not confuse simple with tacky or cheap; they have made plain but pricey Shaker furniture trendy. The bourgeois cared about money, the bohemians fulfillment, but the Bobos



Bobo Virtue and the Future of Human Liberty

By Peter Augustine Lawler

know that one is not possible without the other.

Bobo Aristotelians?

It seems sometimes that Bobos are Aristotelians. To act virtuously, Aristotle says, we need the equipment, and money is an evil only if we regard it as an end, not a means. Money is for the practice of virtue, to show your class or excellence, and the Bobos certainly do spend to show their class. But the beginning of virtue, for Aristotle, is courage, and the Bobos do not seem either to have or to desire the opportunity to act courageously. The members of the WASP ruling class that preceded them, such as George Bush the elder, willingly fought in their nation's wars. The bohemians, such as young Bill Clinton, claimed to have found a certain nobility in evading unjust service. But the Bobos are neither called to military service, nor do they think about serving. War and even hunting are not

for thinking men and women today.

Aristotle also says that human beings fulfill themselves through political activity, but the Bobos disagree. They do not think of themselves much as citizens, and they only rarely have an interest in entering public service. They have little sense of civic duty, and even less noblesse oblige. Because their privileges are based on merit, on brains and hard work, they do not believe they owe others much of anything.

As members of the ruling class, Bobos are, for practical purposes, conservative. They are even theoretically conservative; they are not plagued by utopian political fantasies. They are less narcissists than individualists in Tocqueville's sense — apolitical beings confined to a narrow circle of family, friends, and professional associates.

Bobo Christians

Sometimes the Bobos seem to be Christians. They reject the militant

atheism characteristic of much of the 20th century. And they crave the comfort and meaning provided by religious ritual and community. It is hard to raise children without the help of something like a church, and it is harder still to live in solitary denial of the spiritual side of being human.

The Bobos have returned to church and synagogue. But they want to combine the advantages of communal limits with those of personal liberation. They reject Christian doctrine concerning, say, sexual morality because it makes them feel uncomfortably restricted and unnecessarily guilty, and in general they expect their religious community to make only minimal personal demands on them. They don't think about personal salvation, sin, and divine judgment, or about whether the personal God of the Bible really exists. They don't even think about the differences between Christian and Buddhist belief. Bobos privilege comfort over truth, and they call true whatever makes them comfortable. To take a stand for or against God is just too hard. Their lack of concern for the truth, more than anything else, is what impoverishes their spiritual life.

Because the Bobos do not concern themselves with the personal God, they cannot practice Christian virtue. Distinctively Christian virtue, of course, is not sexual morality but charity. The Bobo is not cruel or hateful toward oth-

ers, but perhaps that is because his or her heart is not easily moved in any direction. Bobos do nothing out of love of God.

Libertarian Bobos believe, without flaunting it, that they deserve what they have, and that what they owe to the unfortunate is nothing more than not to contribute to their degradation. The Clinton or Boboized Democratic party ended its special commitment to the poor, and Bobo spirituality is quite distant from the formerly fashionable theology of liberation, with its activist preferential option for the poor. Evangelical and especially Pentecostal churches today reach out to the poor, but the Bobos prefer the New Age-y serenity that comes with inner fulfillment.

Bobo Marxists

At history's end, Marx predicted, the division of labor will disappear, economic scarcity will be overcome, and human needs will be met easily. Humans will be free to do what they please without being determined or limited by any particular activity. One can hunt in the morning, fish in the afternoon, and philosophize in the evening, without becoming a hunter, fisher, or philosopher. Marx seems, at first, to mean that we will choose our activity according to some human purpose. But in the absence of economic necessity, the materialist Marx cannot identify any such purpose. So all he can say is that we can do whatever we want whenever we want. All human activities assume the status of hobbies. To call them more than that brings to mind the necessities of scarcity, and they have been overcome. I must philosophize without becoming a philosopher (or obsessed with the truth) to show that I am really unalienated.

The Bobos believe, in their own peculiar way, that they live at the end of history. But they are bourgeois, not revolutionary, Marxists, because they believe what Marx hoped for from revolution has been achieved without it. It's possible to live as if all life is a hobby, but they don't think that a hobby is passing the time to no purpose. Work must be meaningful in this Information Age. Lots of money can be made without doing anything we wouldn't have chosen to do anyway, and we can be rich without exploiting others. No necessity compels us to work, but work we do because it fulfills us, and so the distinction between job and hobby is obsolete.

Every moment of the Bobo's life must be educational, lucrative, purposeful, enjoyable, and beautiful. And that just doesn't happen spontaneously. As Brooks observes, the Bobo never stops thinking. He calculates about everything. His children are always busy, his vaca-

tions must be educational and edifying, and he never loses his mind in food, drink, or sex. He wants to leave as little as possible to chance. Yet he must always be having fun. The bourgeois view of the hobby is really a moral imperative: It is not that all of life is a hobby without any effort, but all of life should be one.

And yet neither the Bobo nor his children ever have a moment to sit under a tree, completely immersed in the present, enjoying the sweet sentiment of existence. Bobo life, in this respect, seems tougher than life has ever been before, and the unprecedented dimensions of this choice of calculation over immediate enjoyment can rightly be called a very demanding form of bourgeois virtue. Compelled as we are to admire this virtue, we are also allowed the passing, Christian thought that the Bobos have mistaken hell for paradise.

Bobo Hobbesians?

Bobo life brings to light the most obvious problem with Marxian theory. Its view is that scarcity is material scarcity. So if human beings have plenty of stuff with little work, they will be unalienated or satisfied. But we now know that the overcoming of material deprivation does not free us from necessity. We still grow old and die. In fact, we might die at any moment. As long as we are conscious beings, we will be determined to some extent or another by the necessity of death. And the more comfort and security we have — the more we have to lose — the more that necessity haunts us.

One way we divert ourselves from harsh truth is mistakenly to view death as an avoidable accident. We need not die if we live reasonably or safely. That attitude, as Thomas Hobbes explains, is in some measure reasonable. We will, with any luck, live longer if we make thinking about safety our first priority. Marx was wrong that his end of history would be easygoing, because the number one human problem would actually seem more of a problem than ever before.

The Bobos claim not to be obsessed with death. They display a casual attitude toward work and time, and they have some spiritual solace. And they appear not to think or talk much about their finitude or possible immortality. But not talking about death is not enough. A real pragmatist works hard against it. The Bobo's regimen of exercise is his one activity that he does not even pretend is always fun. Health is no hobby; it's a necessity, and so it must be cultivated in the most scientific and disciplined way.

The Bobos are nonjudgmentalists on almost everything. When it comes to the soul they are *laissez faire*. But when it

comes to health and safety, they are toughly intolerant moralists. They are pro-choice when it comes to abortion. But when it comes to seat belts and smoking there ought to be a law. And safe sex ought to be taught in the schools. It is unrealistic, they say, for our young people to practice chastity. But when it comes to drunkenness and obesity, they can and should just say no. Getting fat will kill you, but safe sex, had with anyone and in any way, won't. Brooks reports that Bobos see no reason not to engage in extramarital sado-masochism, as long as it is in a safe, structured, and consensual environment.

Bobos show that life can and should be both safe and spicy. They prefer both designer sex and designer food. They don't stuff their faces like animals. And their safe and productivity-inducing beverage of choice, coffee, gets better and more exotic every day under their watchful eye. But the idea of safe S&M displays in neon letters the absurdity of all safe sex. What do we do to eros when we calculate so much about it? Conservatives thought that the sexual liberation of the '60s would destroy civilization. We now know that its real enemy is eros. Safe S&M is the price to be paid for the moral imperative that all of life be a hobby.

Another way to appreciate the unprecedented premium the Bobos place on health and safety is to compare them with the WASP establishment of the '50s and early '60s. Those men were public spirited, willingly fought in wars, drank martinis at both lunch and dinner, rarely exercised unless they enjoyed it, and were hardly ever without a cigarette. And when they fooled around, they really were living rather dangerously. Compared to the Bobos, they spent their lives laughing in the face of death. Because they took their souls or duties more seriously, they were less obsessed with their bodies. They were more aristocratic and less bourgeois than our Bobos.

There is real virtue in being fit and healthy. But when morality or virtue is reduced to safety, we do have to worry about the remaining capacity for love and friendship.

Bobo Virtue In A Bio-Tech Age

The Bobos show us that the counterculture of the '60s was a mirage. Even at its height, it mixed incoherently the spirit of the commune with the moral injunction of Do Your Own Thing. And that incoherence remains at the heart of Bobo life. The real counterculture in America is revealed religion. The establishment has almost always been some form of progressive secularism, and it has always been opposed by some form

of Christian, creationist communalism. Many American Christians, of course, have been almost as bourgeois as our bohemians, but the more "orthodox" of today's Christians, Jews, and so forth, have been co-opted far less than our bohemians. There always is a need for a genuine counterculture, because the present establishment is never without flaws, and human beings, as the Christians say, may be most deeply aliens in this world.

The Bobos' lack of concern for the more admirable virtues, such as courage and charity, comes at the expense of the spirit of resistance to cultural fashion and technocratic expertise. That would not be that worrisome if the present level of technology would continue indefinitely, because the Bobos, despite their best efforts, show the greatness and misery of human liberty. But the problem is that Bobos do not possess the spirit to resist the fast approaching biotechnological threat to the very existence of human liberty.

For the Bobos, choosing against biotechnological breakthroughs tomorrow will be like choosing against health today. Who wouldn't choose the best available body and brain for his or her child? The brain as much as the body is a mechanism for comfortable self-preservation. Can the law really allow perverse choices against what is best for any of our children? Dinesh D'Souza, generally a supporter of biotechnological innovation, draws the line at designing our children, calling it tyranny. We can choose for ourselves an indefinitely long and safe life, but apparently not for them. But surely we have the right and duty to choose health for our children if we can, and every biotechnological innovation can be seen as, at least in part, for health and safety. We cannot in some perverse fashion will that our children be unnecessarily malformed. From that perspective, every choice against biotechnology is tyranny.

Bobos are not well positioned to consider what human beings lose as a result of the scientific overcoming of what used to be regarded as the limits of their natures. The choice against, for example, indefinite longevity would have to be against self-preservation and for virtue, love, birth, and death. And I don't see them having the perspective or the guts to make that hard, courageous, and charitable choice. Whatever virtues the Bobos may possess, then, they must be displaced, for their own good and ours, as America's ruling class.

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THOSE OLD ENOUGH TO REMEMBER have probably forgotten — and those too young could probably never imagine — the criticisms that Ronald Reagan endured when he first ran for political office. During his campaign for governor of California in 1966, the incumbent, Edmund G. “Pat” Brown, relentlessly attacked Reagan’s career as a movie star. One Brown television spot showed clips from Reagan’s pictures while a voice-over announcer said: “Ronald Reagan has played many roles. This year he wants to play Governor. Can you afford the price of admission?” In an appearance before elementary school students (also filmed for a commercial), Governor Brown told two black girls, “You know I’m running against an actor. Remember this: You know who shot Abraham Lincoln, don’t you?” The students began to laugh. “An actor shot Lincoln,” Brown said.

Reagan’s victory and subsequent reelection proved that the public didn’t mind particularly that he and John Wilkes Booth had once been actors. So critics soon switched their argument and said it was Reagan’s pictures themselves that were déclass  , asserting his performances were limited to B-grade films with absurd plots. Political opponents and commentators weren’t the only ones voicing such views. There is the famous scene from the 1980 comedy “Airplane,” in which Leslie Nielsen, playing a doctor, attends to an ill passenger at 30,000 feet who tells him, “I haven’t felt this sick since we saw that Ronald Reagan movie.”

Once Reagan became president, another line of attack came into vogue. Far from being only an average actor, he was a master showman — the “Acting President,” as CBS correspondent Bob Schieffer titled his book about the Reagan presidency. Reagan was a leader full of theatrics, the “Great Communicator” who applied the skills he’d honed on Hollywood soundstages to dupe the public into supporting his political agenda. The critics wanted to have it both ways, but Reagan was either a successful movie star, or he wasn’t.

In a final postmodern twist, Reagan’s critics charged that he couldn’t distinguish fantasy from reality. The President had disappeared into the Actor playing the President. Had he been a liberal, Reagan would have been celebrated as the Chief Deconstructionist; but since he was a conservative, the critics implied instead that he was daft.

The \$1 Million ‘Failure’

Few politicians, especially presidents, have lived as much of their lives in the public eye as Reagan has. Almost three decades of Reagan’s life before he became a candidate for public office are recorded on film. As his presidency recedes deeper into the past, and Reagan himself becomes part of history, it is now finally possible for



Here’s the Rest of Him

Ronald Reagan’s political enemies criticized him as a second-rate B-movie actor who couldn’t distinguish the fantasy of the big screen from the reality of world affairs. Once again, the critics got it wrong.

By John Meroney

his career as an actor and an industry labor leader — he served seven terms as president of Screen Actors Guild, starting in 1947 — to be seriously examined.

Not only have historians and biographers missed the full significance of Ronald Reagan’s Hollywood life, they have largely ignored the importance of the roles he played, and the themes and storylines of his films. On closer examination, many of the themes that resonate in the majority of Ronald Reagan’s movies — patriotism, liberty, justice, sacrifice, loyalty, and idealism — are in keeping with the principles by which he lived his life, and the ones he used to shape the public policy of his presidency.

In all, Reagan made 54 films, portraying characters who were mostly heroes. True, some pictures just don’t fit Reagan.

In “Santa Fe Trail” and “The Last Outpost” he played Confederate soldiers, even though as president he was fond of quoting Lincoln. In “The Killers,” a 1964 film based on the Ernest Hemingway short story, Reagan played an underworld boss. The film is notable mostly because it is the only time he was ever a villain — in one scene he famously slaps another president’s real-life girlfriend, Angie Dickinson — and because it was his last picture. He regretted that he went out on such a note.

It’s difficult to call a failure the first MCA actor to win a contract (negotiated in 1941 by Lew Wasserman) worth more than \$1 million. But that is one of the hackneyed accusations leveled repeatedly against Reagan. He was then getting roles that had been offered initially to the likes of William Holden, John Wayne, and Robert Young. In

1941, Jack Warner personally ranked Reagan ahead of James Cagney and Humphrey Bogart as a studio commodity. Even years later, when Reagan turned to television as the host of “General Electric Theatre” on CBS, he was generating higher ratings than Arthur Godfrey, Red Skelton, Perry Como, Jack Benny, and even the powerhouse “Gunsmoke” series. These were not the accomplishments of a professional mediocrity.

Reagan’s best-known films are “Knut Rockne All American” (1940), and “Kings Row” (1942). In the former, he plays Notre Dame football star George Gipp. The lines from his deathbed scene — “Someday when the team’s up against it, the breaks are beating against the boys, ask them to go in there with all they’ve got, win just one for the Gipper. I don’t know where I’ll be then, but I’ll know about it. I’ll be happy” — are almost as well-known as “Frankly, my dear, I don’t give a damn.”

And in “Kings Row” Reagan is playboy Drake McHugh, the only apparently normal character in a small town awash in dark, macabre secrets such as suicide, illegitimacy, and insanity. Even an operation that handicaps Drake for life (“Where’s the rest of me!?”) doesn’t kill his spirit.

“The greatest movie I was ever in was

SEE REAGAN ON PAGE 20

REVIEWS & ESSAYS

The Art of War and Self-Deception

BY BRIAN T. KENNEDY

The China Threat: How the People's Republic Targets America, by Bill Gertz. Regnery Gateway, 280 pages, \$27.95

Hegemon: China's Plan to Dominate Asia and the World, by Steven W. Mosher. Encounter, 193 Pages, \$24.95

DURING THE RECENT STAND-OFF WITH China over a downed American reconnaissance plane, political analysts often described China as an ancient civilization with an immature political culture. What else could explain the decision by Communist Chinese officials to harass the plane in the first place, "detain" the crew for 11 days, and disassemble the aircraft in clear violation of international law?

In their naiveté, the Chinese have also bought a small fleet of Russian-made, Svormeny Class destroyers. Those ships come equipped with Moskit supersonic cruise missiles, the newest and most sophisticated of their kind, designed specifically to destroy U.S. aircraft carriers and the much-touted U.S. Aegis cruisers. Strange, too, that this "inward looking" people dispatched Premier Jiang Zemin to Latin America, at the height of the EP-3E standoff, to establish trade ties, secure oil concessions in Venezuela, and provide the communist government in Cuba with \$336 million in trade credits.

Two new books dispense with the pundits' conventional wisdom about China and cast a critical light on the current state of U.S.-Sino relations. One is by the *Washington Times* national security correspondent Bill Gertz who has put reporters to shame for his outstanding coverage of military and intelligence issues. The other is by China scholar Steven W. Mosher, who has produced another in a fine series of volumes that someday will form the definitive modern history of the People's Republic of China.

Gertz's *The China Threat* dissects the organized China lobby operating in the United States today. He details a network of operatives, both overt and covert, who permeate our intellectual, business, political, and media elites. In the spirit of his previous book, *Betrayal*, Gertz describes the extensive efforts, dubbed "The Plan," of Chinese intelligence to influence the U.S. during the Clinton administration, following the policy of openness in diplomacy and trade begun during the Reagan and elder Bush years. Through these new diplomatic, business, and military channels, China used espionage to obtain sensitive strategic and political infor-

mation, and deployed a well-paid cadre of apologists and public-relations men to deflect charges of aggression.

Gertz is famous in Washington for his high-level intelligence sources. He brings those sources to bear in his effort to separate alleged acts of espionage and treason from merely misguided policies. One could accuse Gertz of looking under beds for Chinese communist spies, but he is careful not to overstate his case. For example, he describes a failed attempt by the FBI to ferret out a U.S. intelligence analyst who had been turned by the Chinese. A key suspect was a senior analyst at the Defense Intelligence Agency, Ronald Montaperto, who, after being questioned by the FBI, left his position at the DIA only to become an analyst at the National Defense University's Institute for National Strategic Studies. At NDU, Montaperto is responsible for the "strategic assessment" of China. Gertz passes no judgement on Montaperto's innocence or guilt; he notes simply that the NDU assessment of China is now embarrassingly soft.

Gertz is much less kind in his assessment of the "sage" advice of old China hands such as Henry Kissinger and Alexander Haig. Both men, we learn, have consulting businesses in China and both have used their Republican foreign policy credentials to persuade Congress and the press that China poses no real threat to U.S. interests. Their overriding message is that China is a great untapped market for trade, and with trade may someday come democracy and a respect for human rights. Gertz is not unsympathetic to this argument. But he objects that a blind devotion to free trade has already disarmed Congressional

oversight of U.S. national security interests. Here Gertz points to the lack of opposition to the transfer of the Panama Canal, even after U.S. intelligence had strong evidence that China was preparing to take control of the canal through agreements between Panama and Hong Kong-based Chinese companies.

If there is a weakness to Gertz's presentation it is his assumption that his fellow journalists will forgive his patriotism. Gertz is a man who obviously loves his country and cannot hide his desire to warn his fellow countrymen of impending danger.

In *Hegemon*, Steven Mosher has a different task. An expert in Chinese languages, Mosher provides a careful and detailed analysis of Chinese strategic thinking using their own military and political writings. The result is a clear and very readable overview of the historical and political origins of China's current policies.

Mosher has personal knowledge of just how ruthless China's foreign and domestic policies can be. He was one of the first Americans allowed into China following the Cultural Revolution. When he described the harrowing conditions of a Chinese village in the '80s, he was denounced as a spy and deported. After serving many years as the Director of the Asian Studies Center at the Claremont Institute, Mosher now heads the Population Research Institute in Virginia.

Mosher shows how Chinese strategic designs operate on a 3,000-year-old principle that China is the Middle Kingdom and that it must serve as the world's "hegemon," lest some other nation seek hegemony over it. There is nothing new or uniquely Communist

about this. It amounts to nothing more than a Thucydidean understanding of world politics mixed with the strategy of Sun Tzu.

Mosher takes care not to read too much into the writings of Chinese leaders. Their words speak for themselves. Mosher sees a rise of "nationalism, ultrapatriotism, traditionalism, ethnocentrism and culturalism" or what he calls, "Great Han Chauvinism." With the intellectual foundations of Communism failing, the Chinese leaders have substituted a brand of racism that they hope will unify the Chinese people and prepare them for the sacrifices ahead. As Mosher points out, the Chinese view themselves today, as they have for more than three millennia, as "the highest expression of civilized humanity."

Hegemon is not a rosy account. Most distressing is Mosher's comparison of students in China today with those who marched for democracy just over a decade ago in Tiananmen Square. Today's students are "steeped in the glories of China's imperial past." Mosher believes that 1989 was the highpoint, sadly, of China's modern efforts toward democratic reform.

Anyone interested in an analysis of the prevailing strategic myths about China — along with a strategic assessment of their military capabilities — will find in *Hegemon* a compelling and thoughtful treatment. It offers a sober reminder of the realism that should guide U.S. policy toward Communist China — and a sharp contrast to the naiveté that has marked U.S. statecraft for the last decade.

Brian T. Kennedy is Vice President of the Claremont Institute.



Freedom Fighters

BY MACKUBIN THOMAS OWENS

The Soul of Battle: From Ancient Times to the Present Day, How Three Great Liberators Vanquished Tyranny, by Victor Davis Hanson. Free Press, 544 pages, \$30

PEOPLE WHO DO NOT UNDERSTAND strategy, tactics, or history often say that democracies are at a disadvantage in waging war against authoritarian regimes. A democratic people, the argument goes, prefers peace and prosperity over the rigors of battle, while militaristic societies eagerly and effectively mobilize for war.

Victor Davis Hanson challenges this common view in *The Soul of Battle*. Hanson acknowledges that most of history's great captains — Alexander, Hannibal, Caesar, Napoleon — were conquerors and aggressors. But their magnificent armies were formed to kill, not preserve; the prize of their victories was absolute rule, not freedom. In short, they and their armies lacked a moral sense and purpose. As a result, no matter how tactically brilliant their battles may have been, they were soulless. Hanson's remarkable book argues that, on rare occasions, "there can be a soul, not merely a spirit, in the way men battle."

Hanson, a distinguished classicist at California State University, Fresno, and an accomplished military historian, contends that the "soul of battle" results from a combination of a just cause and the right commanding general, who creates an instrument of retribution, imbues it with moral fervor, and then directs "the horror of killing into a higher purpose of saving lives and freeing the enslaved."

This soul of battle "arises only when free men march unabashedly toward the heartland of their enemy in hopes of saving the doomed, when their vast armies are aimed at salvation and liberation, not conquest and enslavement. Only then does battle take on a spiritual dimension, one that defines a culture, teaches it what civic militarism is, and how it is properly used." The soul of battle has permitted democracies to "produce the most murderous of armies from the most unlikely of men."

Hanson recalls his father, William Hanson, though not a violent man, helped to kill thousands of Japanese as a member of a B-29 crew in Gen. Curtis LeMay's 21st Bomber Command. Hanson asks: "How [did] a democracy make a willing killer out of my father and other farm boys, putting their lives into the hands of an unhinged zealot like LeMay, who ostensibly was neither emblematic of a democratic citizenry nor representative of the values that we purportedly cherish?"

Hanson examines three campaigns involving generals who, like LeMay, were as warlike as those great conquerors listed above, yet led



armies whose purpose was to save lives, not kill; to free slaves, not to enslave free men; to liberate territory, not annex it. The first of these campaigns is the destruction of Spartan military power by a Theban army under Epaminondas in the winter of 370-369 B.C. The second is Sherman's march to the sea through the heartland of the Southern Confederacy in November-December 1864. The third is the incomparable campaign of Patton's Third Army against Nazi Germany in 1944-45.

Each of these generals led a democratic army into the homeland of an oppressive regime and, by ravaging an area previously inviolate, undermined the inequality upon which the power of the ruling class had been based. Epaminondas's Theban army invaded Laconia, dismantling a system in which Spartans claimed a natural right to enslave 200,000 Messenian helots. Sherman's Army of the West changed the psychological and material course of the Civil War, writes Hanson, by applying the "hard hand of war" to Georgia, freeing black slaves and discrediting

the high-and-mighty planter aristocracy. Patton's Third Army, despite obstacles thrown up by his own superiors, cut through the vaunted Wehrmacht, helped liberate the death camps in Germany, and put an end to "German military power and its entire pseudo-science of an over-class of genetic supermen."

Hanson strives to show that Epaminondas, Sherman, and Patton had much in common. They were "eccentrics, considered unbalanced or worse by their own superiors." But in each case, the general transformed untrained amateurs into "a deadly, fast-moving horde of predators who traveled continuously and left fire and ruin in their wake," ripping the heart out of tyrannical regimes.

These three great democratic campaigns also contradict the view, advanced by military sociologists, that soldiers fight for their comrades rather than for abstract principles. On the contrary, argues Hanson, "Theban hoplites, Union troops, and American GIs were ideological armies foremost, composed of citizen-soldiers who burst into their enemies' heartland because they believed it was a just and

very necessary thing to do. The commanders who led them encouraged that ethical zeal, made them believe there was a real moral difference" between the goals for which they and their opponents fought.

The most controversial part of this book is, no doubt, the section on Sherman. Neo-confederates will take issue with Hanson's forthright description of the South as a slaveholding society. And military historians may also object to Hanson's elevation of Sherman at the expense of Grant.

But these are quibbles that should not detract from the powerful argument advanced by this book — that the most lethal, most disciplined, and best-organized armies can emerge from the "chaos of democracy." Yet once the war is over, the soldiers disperse and the army disappears, never to assemble again. It does not advance the personal ambitions of its general, or influence public policy, or threaten the constitutional order it serves.

In his epilogue, Hanson asks whether a "democratic march" against tyranny ever will be possible again. This is a troubling question. Circumstances today would seem to militate against the factors that gave rise to a citizen militia led by an Epaminondas, a Sherman, or a Patton — the combination of just cause and military genius.

Hanson notes that even during World War II, liberal American society was becoming increasingly hostile to eccentrics like Patton. Americans at large preferred the

bland exemplars of the modern bureaucratic state, men such as Eisenhower and Bradley, to the coarse, boisterous, anti-democratic Patton, despite his role in shortening the war. The universal popularity of Colin Powell today is an indication that not much has changed, especially given his role in prematurely ending the Gulf War, which Hanson argues is the most recent example of a democratic march against tyranny.

With the end of the Cold War, America has become a global hegemon. For better or worse, such a role requires "imperial policing," constabulary operations designed to keep the peace and underwrite the security of what we hope will continue to be a liberal world order. Democratic American "armies of a season" led by eccentric geniuses helped to create this order. One wonders whether America has the will or the wherewithal to sustain it.

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The Weakest Link

BY JEAN M. YARBROUGH

The Kinder, Gentler Military: Can America's Gender-Neutral Fighting Force Still Win Wars? by Stephanie Guttman. Charles Scribner and Sons, 300 pages, \$25

Alvin H. Bernstein, 1939-2001
Requiescat in Pacem

BACK IN THE EARLY DAYS OF THE REAGAN Administration, the noted classical scholar-turned-military strategist Al Bernstein encouraged me to write about the practical and theoretical problems involved in trying to achieve equality for women in the military. At that time, I warned that any effort to hold the military to civilian standards of equality was not only wrong-headed, but dangerous. "Although the military defends the principles of democratic society, it cannot fully embody them," I wrote. "Its end is victory, not equity; its virtue is courage, not justice; its structure is authoritarian, not pluralistic. In short, although the military defends democratic principles and is shaped by the regime of which it is a part, it is not simply a microcosm of the larger society."

Judging from Stephanie Guttman's important though largely neglected new book, *The Kinder, Gentler Military*, the situation has gotten steadily worse — much worse. Although Guttman acknowledges that these problems began with President Nixon's abolition of the draft and have for different reasons (feminist mostly, but occasionally free market) plagued every successive administration, she focuses on events during the Bush and Clinton years, deftly setting military policy within the broader context of social and political developments.

Beginning with the end of the Cold War, commanders became more and more vulnerable to escalating political pressures to expand opportunities for women in the military. But the American victory in the Gulf War made these pressures nearly irresistible. The press regaled the public with breathless accounts of women aviators streaking across the skies, all the while downplaying news that one-tenth of the female crew of a navy repair ship had left midcruise because they had become pregnant. With light casualties and brave testimonies by quickly released female prisoners of war, Operation Desert Storm helped to weaken Americans' traditional resistance to the idea of women in combat. There seemed to be no good reason to bar women who wanted to bleed and die for their country from the "equal opportunity" to do so.

But as Guttman points out, there is something "peculiarly masochistic" about the oft-

expressed willingness of women warriors to die for their country, rather than kill others in defense of it. Missing from the horizon of these would-be martyrs is what Sir Walter Scott once described as "the stern joy which warriors feel in foemen worthy of their steel." And this raises the question of what it is these women warriors wish to conquer: the enemy or the "quintessentially masculine" military? Amidst the post-Gulf euphoria, however, these questions went largely unexplored.

Then in fall 1991, Tailhook exploded on the political scene. As professor of military relations Charles Moskos remarked, "The Tailhook convention of '91 was the worst event for the Navy since Pearl Harbor." Former Secretary of the Navy James Webb concurred: the fallout from Tailhook went on for years and produced a "casualty list which reads like a *Who's Who of Naval Aviation*." With the Clarence Thomas-Anita Hill controversy fueling feminist complaints that men "just don't get it," public pressure mounted to reform the military's outmoded attitudes toward women.

From the standpoint of military morale, the election of the draft-dodging Bill Clinton in 1992 could hardly have come at a worse time. And indeed, one of Clinton's first public acts was to remove all barriers against homosexuals in the military. Forced to retreat to a policy of "Don't ask, don't tell," administration officials pressed on with their agenda to end what they and their feminist allies believed was a "culture" of sexual harassment and discrimination in the military. The Clinton administration had more leeway with the Navy and the Air Force because Congress sets their policies by law, whereas the Army and the Marines have traditionally made their own policies.

In 1993, without much fanfare, a Democratic-controlled Congress quietly repealed the laws that had been in effect since 1948 excluding women from combat in the Navy and the Air Force. Although a few com-

bat positions, notably on submarines, are still closed to women, they can now be assigned to aircraft carriers as well as combat jets. The following year, Navy Secretary John H. Dalton announced that "pregnancy and parenthood are compatible with a naval career."

In chapter after chapter, Guttman describes how over the last decade Navy, Army, and Air Force policies have been altered and standards lowered to make a greater number of military specialties attractive to women, and to advance their careers. Beginning with boot camp, the emphasis now is on cooperation and confidence-building. Gone are the shame-inducing, humiliating contests of strength and speed; recruits are now separated into ability groups and told to compete against themselves. In the name of personal empowerment, the obstacle course has been re-named the "confidence course"; the drill-sergeant has been transformed into a facilitator and friend. Officers croon soothing nightly messages over the inter-coms, and ships are now equipped with massage therapists and shrinks skilled in the latest New-Age healing techniques.

The Navy has taken the biggest hit in the wake of Tailhook, and it has the attrition rates to prove it. Sailors and officers alike complain of a "Mommy ship" mentality where "no matter what you do you get an award for it." In the New (feminized) Navy, authority manifests itself in the form of a smothering, infantilizing Mommy who "corrects your language, . . . takes away your booze, . . . slaps you if you gawk at a woman or tell a dirty joke, . . . worries overbearingly about danger and prescribes tons of tiresome safety procedures. . . ." At the same time, women are being pushed ahead and assigned to combat specialties for which they may not be qualified. The death of naval aviator Lt. Kara Hultgreen, who may well have been pushed too far, too fast after the Tailhook debacle, may help to explain why junior offi-

cers are bailing out in record numbers.

Things are not much better in the Army and the Air Force. Even former Secretary of Defense William Cohen, himself the very model of the modern Defense Secretary (having dropped out of ROTC early in his college career) complained that boot camp was too easy. Only the Marines have held the line and, not surprisingly, morale remains high and attrition low.

Are things likely to get better? In contrast to the Clinton years, Bush's Secretaries of State and Defense both served in the military. And if the president's military record is not as distinguished as his father's, he at least served. Career officers are not likely to despise this Commander-in-Chief.

But what, if anything, can the Bush team do to reverse the dangerous demoralization of our armed forces? Or as the more pessimistic among us fear, must America lose a war or see its women horribly maimed and killed before we retreat from this gender madness? As *The Kinder, Gentler Military* makes clear, it was our civilian leaders who got the military into this mess by turning the armed forces into a gigantic testing ground for social policy, and it is they who must lead them out. But how?

In her concluding chapter, Guttman lists a number of modest reforms that could begin to restore morale right now. First, eliminate all recruiting quotas for women, and concentrate instead on getting the very best recruits, who will in all likelihood be working-class black and Hispanic men. Second, follow the lead of the Marines (and the Israelis) and re-instate the policy of separating men and women in boot camp. Third, in boot camp and beyond, restore high and equal standards for performance and personal conduct. Eliminate double standards. Fourth, implement MOS (military occupational specialty) qualifying tests, and allow women who can meet these rigorous tests to be assigned to these billets. (I have doubts about this one). Fifth, restore openness on all gender-related matters, and don't try to cover-up dicey policies that are not working. Sixth, announce a general amnesty for all officers unfairly tarred by Tailhook. Seventh, draw a clear line between military and humanitarian actions, and assign the latter to a civilian corps. As we are discovering in Bosnia, the skills required for waging war are very different from those involved in keeping the peace. Eighth, which needs no explanation: be more like the Marines.

To Guttman's list, I would add two additional suggestions: abolish DACOWITS, the Defense Advisory Committee on Women in the Services. As *National Review's* Kate O'Beirne pointed out recently, it is not enough to try to tip the balance on this committee by appointing sensible women who appreciate the importance of combat-readiness. This is a committee whose entire culture is weighted in favor of advancing the cause of ambitious women officers. As long as it exists, it is trouble. The 50th anniversary of its establishment provides

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REAGAN

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'Kings Row,' and I think it was the finest part I ever had," Ronald Reagan said in a 1980 interview about his Hollywood years. "I get a kind of naughty pleasure out of the fact that when it first came out, the critics panned it unmercifully, and today it is very often included as one of the ten best pictures of all time."

Foreshadowing a Presidency

Some of Reagan's forgotten movies, whose final cut, shall we say, didn't live up to the script's promise, also happen to be some of his most interesting work. In "Murder in the Air" (1940), Reagan is Secret Service agent Brass Bancroft. The plot turns on a highly-classified device called the "Inertia Projector," a special ray-beam that can shoot down aircraft from four miles away. Journalist Frances Fitzgerald claims in *Way Out There in the Blue*, her book-length attack on Reagan's prosecution of the Cold War, that his idea for missile defense was inspired by this film. (Reagan and Bancroft were alike in at least one respect: both were lieutenants in the Army Air Corps.)

Years later, Reagan described his general film type as one who would "rush into a room, grab a phone, and yell, 'Get me the city desk! I've got a story that will crack this town wide open!'" And decades before Hollywood made Bob Woodward a screen hero, Reagan was showing that journalism could be even more exciting, playing a fictional reporter named Matt Sawyer in "Nine Lives Are Not Enough" (1941). Sawyer's reputation for accuracy is questioned after he writes an exposé about an alleged gangster called Moxie Karper (played by Ben Welden). Sawyer's boss takes him off his regular beat as punishment, but the reporter is determined to prove himself. With the help of police officers he meets in the course of reporting his

story, he eventually does just that, going so far as to connect Karper with an even more elaborate crime web.

"International Squadron" (1941) has one of the most moving storylines of any Reagan picture, and if pitched to studio executives today it would have the makings of a "Pearl Harbor"-style epic. In it, Reagan plays Jimmy Grant, a devil-may-care American stunt pilot who witnesses a Nazi air attack on London that kills a child, an incident that shakes him to his core. Grant's sense of principle and morality is awakened, driving him to volunteer for the Royal Air Force. Ultimately, he insists on going into battle in the place of another allied pilot to atone for his initial complacency — a decision that costs Reagan's character his life.

Some pictures now appear tailor-made for him. In "Storm Warning," the first of two movies released in 1952 that Reagan made with Doris Day (whom he also dated after his first wife, actress Jane Wyman, divorced him) Reagan is a principled Southern district attorney, Burt Rainey, who wages war against the Ku Klux Klan and wins. And later the same year, in "The Winning Team," he delivers a command performance as Grover Cleveland Alexander, the St. Louis Cardinals pitcher. Watching that film today, one cannot help being reminded of the tragic circumstances of the last few years of Reagan's life, given that the story revolves around Cleveland's failing health. The pitcher was an epileptic, a condition Cleveland tried to conceal out of fear that the public would pity him. He went to extremes to mask his illness, and started drinking heavily, causing fans to turn against him. Eventually, with the help of his wife (Day), Cleveland overcomes almost insurmountable odds to help beat the Yankees in the

1926 World Series, securing his place in the pantheon of baseball greats. Reagan loved that triumphal end, and the picture is one of his personal favorites.

Reagan wanted "Prisoner of War" (1954) to be more than just entertainment. The idea was to show the American POW experience in Korea in all its stark brutality, sparing nothing in depicting the extremes of communist brainwashing and torture. (The film's technical advisor had himself been a POW in North Korea, and had interviewed GIs to help authenticate the script.) In it, Reagan is an army officer named Web Sloane who parachutes into North Korea to infiltrate a POW camp. "The picture should have done better," Reagan said in a 1980 interview. "Every torture scene and incident was based on actual happenings documented in official army records. Unfortunately, production and release were both rushed, with the idea the picture should come out while the headlines were hot."

Role of a Lifetime

Reagan loved movies, and his work in Hollywood was as critical to shaping his presidency as practicing law was to Lincoln, or commanding the PT-109 was to JFK. Brass Bancroft, The Gipper, Drake McHugh, Grover Cleveland Alexander — all of them are critical parts of Reagan's life's work.

But the films that seemed to influence Ronald Reagan most profoundly were made about as far away from Hollywood as one can get. During World War II, Reagan was an administrator of the Army Air Force's Signal Corps, and he helped supervise the making of military training and promotional films. That put him in a position to be one of the first to view the color footage of Nazi death camps filmed by government combat camera units and processed in Culver City before being

sent to the War Department in Washington.

Forty years later, he still had vivid memories of the scenes. He recalled them to Israeli Prime Minister Yitzhak Shamir in the Oval Office. "It was unbelievable to sit there and see that film of not only the dead but the condition of the living," Reagan said. "I remember one shot — I can never forget. There was a building that looked like a warehouse. The floor was entirely carpeted with bodies. While we were looking out in the middle of all those bodies, suddenly, slowly, one body moved and raised up, a man on his elbow, and he tried to gesture with his other hand. He was alone, alive with the dead."

The films gave Reagan a visual image of evil in the world, and when the war ended, Reagan secretly took a duplicate of one in the event that the day would come when the true horrors of the Holocaust were questioned. "Jews who had tried to make an escape just got mowed down," he said. "The camera just panned along the fence, showing their hands still clutching at the wire."

Ronald Reagan never won an Oscar. But even liberal historians now concede that he did win the Cold War, or at least played a decisive role in ending it. Jesse Jackson, of all people, recently admitted: "Henry Kissinger types bitterly argued that it was absurd to expect [that] a guy like Reagan could do anything with Gorbachev ... And yet ... Reagan made history that all those little wannabe Kissingers in the future will spend their working lives analyzing."

By any measure, that is a performance worthy of a Lifetime Achievement Award.

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LIBERALS

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for the worth of their views and circumstances that liberals' attitudes too often deny. Packer even has a kind word to say for William Jennings Bryan's position at the Scopes trial.

Where these kinder, gentler attitudes would leave American liberalism is utterly unclear. Last chapters of books on contemporary politics, where the author gets to say what his book means and where we go from here, are always the hardest to write and almost always disappointments to read. Packer's is weaker than most.

The closest he comes to a program is to say a few words on behalf of the idea that no one who works should be poor, a pedal on the organ that has been pressed many times already. Packer interrupts his sympathetic hearing for a white Alabama evangelist when the man expresses skepticism about a \$10-an-hour minimum wage. But if the preacher's concern that such a law would cost jobs or hurt economic growth is so narrow and unimaginative, why does Packer limit himself to \$10? If a new agenda for a new liberalism is as simple as all that, why not do it right and seek a minimum wage of \$25 or \$50 an hour?

Many of the criticisms Packer makes of liberalism — about its moral preening, the vaporousness of its ideas, and the thin line that separates its compassion from its disdain — will sound familiar to conservatives. But Packer has no patience for conservatives, even when he knowingly agrees with them.

It is impossible not to admire a son's loyalty to his father. It is also impossible not to wish that George Packer had shown greater respect for his readers. The best authors deserve readers who are prepared for a book to change their lives, or at least to change their minds, or at the very least to give them pause about beliefs they had not stopped to examine. But to deserve such openness a writer must offer it, and for all the questions *Blood of the Liberals* raises, it never entertains the possibility that there is anything more to conservatism than the justification of meanness and greed. George Packer has found an affecting way to tell his family's story but squandered an opportunity to make America's political arguments more intelligent and productive.

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SOWELL

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state's power companies and by a multitude of state regulatory barriers to the construction of new generating plants.

Such economic illogic and illiteracy are Sowell's target in this volume, and he scores a bullseye. Anyone who hasn't studied economics formally should read *Basic Economics* to learn it in a logical, straightforward way. Anyone who has been subjected to biased and dreary economics textbooks should read *Basic Economics* as a bracing corrective.

Two intertwined themes recur in the book. First, the quantity and dispersion of information in a society doom central-economic planning to failure. Second, the intentions of government economic policies are usually very different from the outcomes of those policies, which are really all that matter.

It is worth noting that Sowell does not jump in and take sides on big economic

issues where serious economists still have legitimate disagreements, such as the relative efficacy of fiscal and monetary policy, or whether a fixed or floating exchange rate leads to greater prosperity. The things he does deal with at length — e.g., the consequences of rent controls, price controls, international trade — are basically settled issues, as the title suggests.

Reflecting on his life, Sowell cites one of his favorite quotations, from English economist David Ricardo:

I wish that I may never think the smiles of the great and powerful a sufficient inducement to turn aside from the straight path of honesty and the convictions of my own mind.

In this regard, Sowell has met and exceeded the standards he set for himself.

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HOLMES

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Holmes's nihilism. Holmes and his disciples, he says, "did not bring something bold or new by proclaiming that [law] is evolutionary and adaptive and can further human needs ... [T]hose ideas were a source of pride for Americans from the beginning." Rather, they took something away — "the sense that law can further objectives beyond internal coherency, personal tastes, and selfish interests." Although Holmes's analysis of law is frequently described as a "revolt against formalism," it was at its core "a revolt against objective concepts of right and wrong — a revolt against natural law."

The ultimate roots of Holmes's radical skepticism remain obscure, but his combat experience in the Civil War seemed to seal him forever in the view that all life, including discussion about good and evil, was nothing more than a struggle for power. Any hope he might have previously entertained about the possibilities of virtue appear to have been buried with his comrades at Ball's Bluff, Antietam, and Chancellorsville. It was a hard and gloomy man that emerged from 18 years of private law practice to deliver the lectures on which *The Common Law* was based, and, if anything, his pessimism grew darker in his subsequent service on the state and federal bench.

Alschuler deftly traces the course of Holmes's thought throughout his career, finding a remarkable consistency in his judicial opinions, articles, and correspondence. The man who thrilled Progressives with his insistence that the Constitution did not enact Herbert Spencer's *Social Statics* had more in common with Spencer than with social reformers whose tenets he despised. His letters and speeches are filled with allusions to the eternal struggle for existence and the triumph of the strong. Though dour about the prospects for humanity generally, Holmes again and again expressed extraordinary enthusiasm for those who (like himself) triumphed by superior wit, courage, or sheer force of will. He was, not surprisingly, a passionate believer in eugenics. His opinions on that subject, as even a sympathetic biographer felt compelled to say, "went beyond the conventional views on eugenics of his day." They were, not to put too fine a

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the perfect occasion for its dissolution. And finally, pressure America's elite liberal arts colleges and universities to restore ROTC to our campuses. If the feds can use the threat of withdrawing public funds to bring about gender equity in sports, they can surely use it to revive military readiness. It's time to remind all those who insist on a military force "that looks like America" that the one group noticeably missing in action these days is white middle- and upper-class college educated men.

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point on it, barbaric.

Perhaps the most astounding feature of the Holmes hagiography is his continuing reputation as a liberal reformer. Holmes must have laughed himself silly at the thought. He believed the Progressives to be fools, thought socialism was unbridled nonsense, and expressed contempt for what he called "the thick-fingered clowns" of the underclass. His much-heralded dissent in the bakery-hours case (*Lochner v. New York*) endeared him to the Progressives, who read his opinion as an endorsement of their agenda. But, as Alschuler points out, Holmes was merely applying to the legislative process the same principle he saw at work everywhere else. If the legislature of New York sought to fix hours of employment in what it deemed to be dangerous trades, far be it for the Supreme Court to countermand the victory of the dominant political force in the state.

The same holds true for the most part (there seems to have been some mellowing over time) for his celebrated views on freedom of speech: The marketplace theory of ideas, which Holmes read into American constitutional law was, again, but an application of the principle of endless competition. It mattered not to Holmes, however, whether the idea that triumphed in the market enhanced freedom or tyranny. Truth had nothing to do with the right ordering of being; it was simply a word to describe the winner of ideological contests. The Court had nothing to teach about the moral efficacy of ideas; its sole function was to insist that the rules of competitive struggle prevailed. While Holmes insisted that the Constitution did not enact Spencer's *Social Statics*, he labored mightily to ensure that it incorporated his own view of the cosmos.

It would be unjust to say that Holmes was a monstrous man, although on Alschuler's evidence one could be forgiven such a judgment. It is not unjust, however, to say that he lent his considerable intellectual talent and enthusiasm to monstrous ideas. Grant Gilmore, who struggled for 15 years at a Holmes biography before giving up, had it right: "Put out of your mind," he said,

the picture of the tolerant aristocrat, the great liberal, the eloquent defender of our liberties, the Yankee from Olympus. All that was myth ... The real Holmes was savage, harsh, and cruel, a bitter and lifelong pessimist who saw in the course of human life nothing but a continuing struggle in which the rich and powerful impose their will on the poor and weak.

Professor Alschuler would agree. He is to be congratulated for bringing together in one place, fairly and courageously, evidence sufficient unto the indictment.

Michael M. Uhlmann is an Adjunct Professor of Government at Claremont McKenna College.

Errata

In the Winter 2001 issue, Anthony Fucaloro should have been identified as the George C.S. Benson Professor of Public Affairs at Claremont McKenna College. In Harry Neumann's piece in the same issue, Carl Schmitt should have been identified as a German theologian, not philosopher.

THE REVIEW OF POLITICS

CITED AND READ THROUGHOUT THE WORLD FOR THREE GENERATIONS

CITED AND READ THROUGHOUT THE WORLD FOR THREE GENERATIONS FROM ITS INITIAL DIRECTION BY FOUNDING EDITOR WALDEMAR GURIAN THE REVIEW HAS CONTINUED TO EMPHASIZE THE PHILOSOPHICAL AND HISTORICAL APPROACH TO POLITICS. AMONG THOSE WHOM IT PUBLISHED AND ENCOURAGED ARE HANNAH ARENDT, JOHN KENNETH GALBRAITH, JACQUES MARITAIN, TALCOTT PARSONS, CLINTON ROSSITER, EDWARD SHILS, LEO STRAUSS AND ERIC VOEGELIN.

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Rebels Without a Cause

BY MARK GAUVREAU JUDGE

THE FACE OF POP-MUSIC HAS changed over the last few years, as the influence of '60s radicalism has waned. First, there was the swing revival of the mid-'90s. Then came a wave of Latin artists, apolitical and dance-oriented, such as the Buena Vista Social Club, a group of elderly musicians who got their start in Cuba in the 1940s. This was followed by "teen pop," over-produced music performed by teenagers, emphasizing melody and dance over the angry lyric and the raised fist.

All of this is good news for everyone, more or less. Everyone, that is, except the professional rock critic. As protest rock has given way to happier sounds, the tastemakers in the prestige media have struggled desperately to reconjure a little of that old black magic. In the process, they have defended the indefensible, denied the obvious, and made some wild rhetorical exaggerations. Rock-and-roll-as-protest has become **nothing** more than a psychological phenomenon, almost a self-parody, that has very little to do with music.

Exhibit A is an article titled "No Last Hurrah Yet for Political Rock," which appeared last December on the front page of the *New York Times* Arts & Leisure section. "Understanding the current place of protest in music . . . requires turning away from that old vision of a throng singing choruses written by iconic troubadours, not to mention its 1980s counterpart, the Live Aid-style celebrity marathon," writes Ann Powers. "Today's protest music more closely echoes the street politics rock has always inspired: the focus is scattered, the voices dissonant and the levels of involvement widely mixed. This noisy arena finds strength in its very diversity."

That's the nice way of saying no one is performing or buying protest rock anymore, except for a few misanthropes and kooks. But the '60s orthodoxy about popular music won't go quietly. It demands that music involve some kind of rebellion, and any music that is not about rebellion is not worth listening to. In the wake of our cultural meltdown, this has led to some delicious ironies. The foul-mouthed rapper Eminem was nominated for four Grammy awards this year, caus-

ing a tempest among homosexual-rights groups who find his lyrics offensive. But for the rock media, the only taboo is the declaration that something is taboo. These critics were then in the uncomfortable spot of defending Eminem while trying to remain politically correct. For its sins, MTV, which promoted Eminem relentlessly, aired an entire day of awareness programming, sans commercials, including a made-for-TV movie about Matthew Shepard, the gay man who was murdered in Wyoming.

Thus MTV gets to feel both hip and virtuous. Among the media elite and the culturati, the easiest path to virtue is as a member of a fringe group fighting against large, impersonal forces. What could be more romantic than the rock musician as barrier-smasher?

For the avant-garde, in fact, music isn't about music at all anymore. This is obvious when one turns to *Weird Like Us: My Bohemian America* (De Capo Press, 288 pages, \$14), Powers's memoir-cum-manifesto. I must admit to feeling a twinge of discomfort in reading *Weird Like Us* because I was once weird like

Powers. I was a "radical," and a lot of my life was almost identical to hers. Powers and I are roughly the same age, mid-30s. Like her, I grew up in a nice middle class home and as a youth rebelled against my parents. I too loved punk rock, the scabrous youth music that can clear a room in seconds. I spent time in punk mecca Seattle, where Powers lived and had her first acid trip on July 4, 1980, in a scene that opens the book. Like her, I worked in a record store. My politics, like hers, were on the left, and were formed, like much of my generation's, from disappointment at missing the battles of the 1960s. So we wanted to create monsters to set ourselves bravely against.

Like Powers, I was also self-aggrandizing. My friends and I were snobs whose only religious heroes were the saints of the left: Beat poets of the '50s, street fighters of the '60s, and punk rockers of the '70s, sticking it to The Man by getting funny haircuts, staying out late drinking, and annoying neighbors with loud music. It was lifestyle politics masquerading as something more, because there were so few taboos left to break. The attitudes and politics of prior rebel movements had conquered American culture. Premarital sex was rampant, as was divorce. At the Washington, D.C., record store I worked in, I was the odd man out because I'm not gay. You could wear whatever you wanted in public, publish anything, say anything. But admitting this would have left me and other "rebels" in the 1980s with no enemies to take on, and taking on America was what it was all about.

Like most other rock rebels, Powers

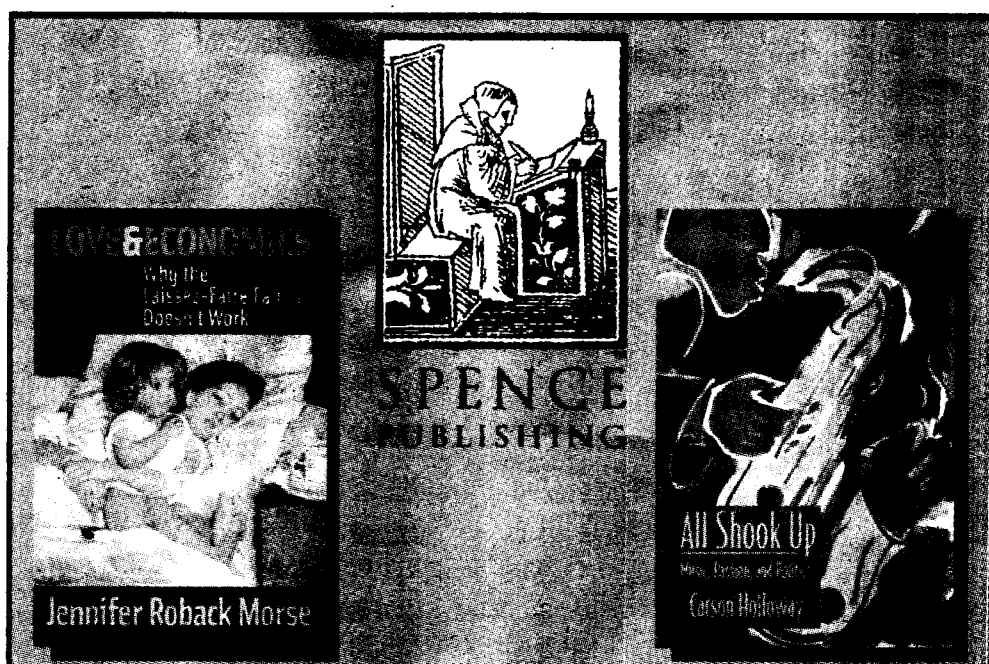
doesn't seem to grasp the fact that she's a snob. She formed a clique every bit as insular as the jocks, cheerleaders, and religious people she claims have no use for her. Moreover, she's stuck in the ditch that hipsters and radicals dug for themselves through the better part of the 20th century. Their notion of "virtue" requires them to become marginalized, which requires them to buy into some very orthodox ideas about the meaning of marginalization. Among these is the idea that mainstream culture is terrible because it doesn't accept rebel rockers—except when it does, which then means that the rebel rocker is really a sellout.

It's all very predictable, and no one is going to hold his breath waiting for Powers to rebel by condemning promiscuity or abortion. Instead, there is plenty of vapid, self-important grandiosity that is all too common among rebels who have won so many battles they have nothing to fight against, but still feel physiologically compelled to do so. Here is Powers describing the cultural atmosphere when she was living in a group house in San Francisco:

It was the mid-1980s, Reagan's American morning. We felt like we were living in an alien nation, where robotic yuppies ate twelve-dollar plates of mashed potatoes at ersatz-retro diners and neck-scrubbing Christians fought artists in the streets. The air buzzed with words, speeding toward us like bullets: virtue, morality, values. According to everyone around us, we could lay no claim to these terms; we were expected to follow in the deep footsteps of the countercultural baby boomers or to stay in our corners, despairing at the failure of their revolution. We felt like we had to start at the beginning. And so, like children, we shut the door behind us, pulled out our game board, and played the Game of Life.

Confronted with neck-scrubbing Christians, robots, and \$12 plates of mashed potatoes, it's hard to blame Powers and her fellow bohemian-Americans for rejecting Reagan and retreating to their rooms to reinvent the world — oh yeah, and to take a job with the *New York Times* and get a fat advance to write a book for a major publisher. When the *New York Times* called and offered her a job in 1992, Powers says she first rejected it, thinking it a capitulation to the mainstream she'd been fighting against her whole life. And what a fight it's been, advancing up the sure path to that fringe rebel outfit, the *New York Times*.

Mark Gauvreau Judge is author of *If It Ain't Got That Swing: The Rebirth of Grown-Up Culture* (Spence, 2000).



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A Stroll Down Gin Lane

BY BEN BOYCHUK

GIN IS THE NEW TEQUILA, WHICH JUST A year or two ago was the new vodka. To any sensible person, that statement makes no sense. But it means something to marketers, trendwatchers, and people who read *Forbes* ASAP. Why gin and why now? In part because high demand pushed the price of tequila to upwards of \$75 a bottle — an absurd price, even for the good stuff. Also, the martini, king of the cocktails, continues to enjoy a glorious renaissance. And there is only one way to make a proper martini. Gin, that most versatile of spirits, is it. Gin is hip. Gin is back.

Not that it ever left. Gin has been with us for 500 years or so, and it's the base of some 300 cocktails — no more than two-dozen of which are drinkable. Yet for all its popularity and ubiquity, gin remains saddled with a reputation as a cheap spirit good for nothing but a quick trip to the gutter. "Mother's ruin," temperate Londoners called it. William Hogarth immortalized gin's status as a low-class drink in 1751 with his etching "Gin Lane" — "Gin, cursed fiend, with fury fraught, / Makes human race a prey. / It enters by a deadly draught, / And steals our life away." The man obviously never drank a martini.

Wine & Spirits magazine reports that "there's a new interest in gin." And how. In the last seven or eight years, more than a dozen new gins have hit the market from such places as Germany, France, Scotland, and the United States, as well as the traditional gin-producing nations of England and Holland. These are hand-crafted, "boutique" gins. You could almost call them "sipping" gins. And they don't run cheap. Gin Lane has finally gone upscale.

It's no secret that the editors of this publication enjoy a good dose of "Dutch Courage" from time to time, whether it be in the martini, the gin-and- tonic, the gimlet, or the strange and wonderful Negroni. We take inspiration from the words of the great journalist H.L. Mencken, who said, "I am prepared to admit some merit in every alcoholic beverage ever devised by the incomparable brain of man and drink them all when occasions are suitable . . . I am omnibulvous, or, more simply, ombibulous." But with so many choices, even the most ambitious omnibib may have difficulty finding just the right gin for his preferred cocktail.

We decided to do a small, decidedly unscientific tasting. We made one exception to our ombibulism — all French and German gins were ruled out as too odd, too expensive, and possibly harmful to our souls. The following tasting occurred over the course of a few days in early May in Claremont, during an unusual heatwave. There were no blackouts, rolling or otherwise. Here are the results:

• **Boodles British Gin (90.4 proof, 45.2% alc. by volume):** As smooth as a sheet of black ice on a dark mountain



road and almost as dangerous. This is a very well-balanced gin, ideal for martinis. Big flavor, but not overwhelming, with suggestions of lemon and orange, and a fair bit of juniper. Distilled by Seagram's, Boodles cannot be beat for the price: around \$13 for a 750 ml bottle. The magic of Boodles is its staying power. But be advised: drinking one Boodles martini will warm your heart and make you think happy thoughts about your fellow man; drinking two will induce flights of utopian speculation and could lead you more easily into temptation; drinking three may cause you to forget where you live. We can't recommend it highly enough.

• **Beefeater London Distilled Gin (94 proof, 47% alc. by volume):** Crisp, fragrant, and a bit sharp around the edges. Lots of citrus and spice. Beefeater is a great, mid-priced "utility" gin. It mixes well with just about anything, and doesn't make your brain hurt. Great for gin-and-tonics, just fine for martinis.

• **Bombay Sapphire London Dry Gin (94 proof, 47% alc. by volume):** Although on the pricey side — \$20 for a 750 ml bottle, give or take — Sapphire may well be the queen of gins, ideally suited for the king of cocktails. It lists 10 botanicals on the bottle — everything from Saxon angelic and Italian juniper to Javan cubeb berries and West African "grains of paradise" — but what stands out is the juniper, the citrus, and maybe just a little bit of liquorice and spice. Sapphire is a full-flavored gin, crisp and clean and wonderful.

• **Tanqueray "No. 10" (94.6 proof, 47.3% alc. by volume):** This is one of the more recent high-end offerings, distinguished by its slender, faceted emerald bottle. The professional magazine tasters all seem to recommend it for martinis, noting its subtle lemon overtones, but we respectfully disagree. If you happen to like martinis that taste like potpourri, then Tanqueray "No. 10" is for you. It makes a fine gin-and- tonic. At \$25 a bottle, however, that's a mighty expensive G&T. At almost half the price, your garden-variety Tanqueray (the one in the squat green bottle) is a perfectly respectable spirit.

• **Tanqueray Malacca Gin (80 proof, 40% alc. by volume):** Something of a novelty gin, this is touted as "the original 1839 recipe." This may be a case where older is not better. The gin certainly has character, with a peculiar flavor (pine? almond? grapefruit?) and very strong nose — imagine falling face-first into a juniper bush. Seems to go best with tonic; not bad on ice with two or three dashes of Angostura. Not really a martini gin.

• **Junipero Dry Gin (98.6 proof, 49.3% alc. by volume):** Junipero stands out for a number of reasons. It is the best of the small-batch, handcrafted gins we tasted. It has the highest alcohol content. It's the most expensive gin in the survey, at \$30 for a 750 ml bottle. And it's 100% American. Made by San Francisco-based Anchor Distilling (sister firm of Anchor Brewing, makers of Anchor Steam

Beer), Junipero is a medium to full-bodied gin with plenty of herbs and spices, and a subtle citrus flavor. It goes down smooth, and has a nice clean finish. This is a great martini gin, and would probably be wasted on anything else. The price may be slightly intimidating but trust us, it's worth it.

• **Plymouth Original Dry Gin (82.4 proof, 41.2% alc. by volume):** Plymouth's makers say Winston Churchill used to make his martinis with their gin, a twist of lemon, and nothing else. The story goes that instead of adding vermouth, he would glance toward France and nod in respect. A very nice story. But it's almost certainly bogus. Churchill enjoyed scotch, brandy, and champagne, and drank his whisky very weak. Alas, he probably never drank martinis. Nevertheless, Plymouth is a very good gin with an otherwise respectable pedigree. It was the Royal Navy officers' gin of choice; gin mixed with Angostura bitters (a.k.a. Pink Gin) was their drink. Plymouth gin is mellower than traditional London dry gins. It's a bit sweeter, a bit fruitier, and it has a slightly tangy aftertaste. Somewhat expensive at \$24 for a 750 ml bottle, but worth exploring.

• **Hendrick's Gin (88 proof, 44% alc. by volume):** Another small-batch, handcrafted novelty, described by its Scottish makers as "a most peculiar gin." The gimmick here is that the spirit is infused with cucumber and rose petals. It's actually a nicely balanced gin, medium-bodied, lots of juniper, herbs, and maybe a little bit of rose. It sort of dances on the tongue. A fine gin as far as it goes, but hard to recommend for the price — around \$27 for a 750 ml bottle. Hendrick's makes for an odd martini, but an interesting gin-and- tonic. The distillers recommend using a slice of cucumber rather than lime for a garnish. But if you can taste the cucumber in the gin, you're probably drunk.

Ben Boychuk is Managing Editor of the Claremont Review of Books.

Summertime, and the Living is Easy

For every season, there is a drink. Autumn and winter are the seasons of the Manhattan and the Old-Fashioned. Spring is synonymous with the Cape Codder and the martini. And summer? Summer is the season of the tall, cool one. Summer is all about the margarita, the Mai Tai, the Long Island Iced Tea. And nothing beats a gin and tonic with a splash of Campari on a hot summer afternoon.

But what about the Americano, the mojito, and the Negroni? What goes into sangria, exactly? And if a party guest happens to ask you for a Chi Chi, what should you do?

Salvatore Calabrese has the answer to these questions and more. (For a Chi Chi, reach for the vodka and coconut cream.) Calabrese manages the bar at the Lanesborough Hotel in London. He knows his drinks — he's author of *Classic Cocktails* and *Classic After-Dinner Drinks* and a world-renowned cognac expert. His latest book, *Classic Summer Cocktails* (Sterling, 176 pages, \$14.95) arrives just in time for the summer drinking season.

Most drink recipe books are a dime-a-dozen and most discriminating imbibers are right to be wary of them. Calabrese's is a handsome little book, printed on heavy coated (and, one guesses, spill-resistant) stock and filled with photographs of fantastically adorned beverages

that in some cases look more like modern art than something you would actually drink. He is by no means exhaustive — if seven or eight variations on the Singapore Sling are what you're looking for, you'd best track down a second-hand copy of Charles Baker's *Gentlemen's Companion* — but he doesn't simply list the traditional summer fare and their ingredients. He has fun with them. He devotes whole chapters to the daiquiri and the margarita, explaining in loving detail their origins, component parts, and proper preparation. (Trivia buffs take note: The daiquiri was JFK's favorite drink, and the margarita was first made for actress Marjorie King, who said she was allergic to all liquor save tequila.)

Calabrese provides several recipes of his own. Some are strange and a bit girlish — e.g. the Velvet Rosa: one shot of rum, half an ounce of peach schnapps, cranberry juice, topped with champagne. But one caught my eye, perhaps because it's so wonderfully un-P.C. It is called the Breakfast Martini. I won't divulge the recipe, except to say that purists will undoubtedly object to the introduction of orange marmalade. But Calabrese almost has me convinced. "Try this — it has a wonderful texture, combined with the spiciness of the juniper, a sweetness and a sharpness," he writes. "It's refreshing . . . You're alert from the very first sip. What a way to start a summer vacation day." Vacation day? Right. — B.B.

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